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No. 2302

United States

Circuit Court of Appeals

For the Ninth Circuit.

Transcript of Record.

(IN TWO VOLUMES)

THE WASHINGTON WATER POWER COMPANY, a Corporation,

Appellant,

vs.

KOOTENAI COUNTY, a Municipal Corporation,
and FRED E. WANNACOTT, as Assessor
and Ex-officio Tax Collector of Kootenai
County, Idaho, and His Successor and Successors,

Appellees.

VOLUME I.

(Pages 1 to 374, Inclusive.)

Upon Appeal from the United States District Court
for the District of Idaho, Northern Division.

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[Names and Addresses of Counsel.]

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

No. —.

THE WASHINGTON WATER POWER COM-
PANY, a Corporation,

Appellant,

vs.

KOOTENAI COUNTY, a Municipal Corporation,
and FRED E. WONNACOTT, as Assessor,
and Ex-officio Tax Collector of Kootenai
County, Idaho,

Respondents.

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*In the District Court of the United States for the
District of Idaho, Northern Division.*

THE WASHINGTON WATER POWER COM-
PANY, a Corporation,

Plaintiff,

vs.

KOOTENAI COUNTY, a Municipal Corporation,
and FRED E. WONNACOTT, as Assessor,
and Ex-officio Tax Collector of Kootenai
County, Idaho,

Defendants.

Bill of Complaint.

To the Honorable District Court of the United
States for the District of Idaho, Northern Divi-
sion.

The Washington Water Power Company, a corpo-
ration organized and existing under and by virtue of
the laws of the State of Washington, and a citizen of
said State, brings this its bill of complaint against
the above-named defendants, Kootenai County, a mu-
nicipal corporation organized and existing under and
by virtue of the laws of the State of Idaho and a
citizen of said State, and Fred E. Wonnacott, as
Assessor and Ex-officio Tax Collector for said Koo-
tenai County, Idaho, and thereupon plaintiff com-
plains and says:

I.

The plaintiff is now and was at all of the times
mentioned in this complaint, a corporation created
and existing under and by virtue of the laws of the
State of Washington, having its principal place of
business at Spokane, Washington, and is now and at
all of the times mentioned in this complaint was a
citizen of the State of Washington, and that it has
at all of the times herein mentioned fully complied
with the laws of the State of Idaho relating to for-
eign corporations and is [1*] authorized and

*Page-number appearing at foot of page of original certified Record.

empowered by virtue of such compliance with the laws of the State of Idaho to do business and to acquire and hold property in said State.

II.

That the defendant Kootenai County was at all of the times herein mentioned and now is a municipal corporation created, organized and existing under and by virtue of the laws of the State of Idaho, and was at all of said times herein mentioned and now is a citizen of said State.

III.

That the defendant Fred E. Wonnacott is the duly elected, qualified and acting assessor and ex-officio tax collector of Kootenai County, Idaho, and was at all of the times herein mentioned and now is a citizen and resident of said State.

IV.

That during the year 1911, the said defendant Fred E. Wonnacott was and still is the duly elected, qualified and acting assessor and ex-officio tax collector of said Kootenai County, Idaho.

V.

That at all of the times since the 1st day of January, 1911, and prior thereto the complainant was and now is the owner of the following described property situated at Post Falls, Idaho, to wit:

All of that portion of Lot Nine (9) in Section Three (3) Township Fifty (50) N., R. Five (5) W. B. M., lying west of the county road and containing about twenty-four and four hundred and three thousandths (24.403) acres more or less; also Island No. One in Sections Three (3) and Four (4) of the

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aforesaid township and range, containing Forty-two and Three hundred thirty-seven thousandths (42.337) acres; also Island No. Two in Sections Three (3) and Four (4) of the aforesaid township and range, containing sixty-two and sixty-one thousandths (62.061) acres; also all the land and premises in Sections [2] Three (3) and Four (4) of the aforesaid township and range lying and being beneath or under or a part of what is designated and described in the plat attached to the United States patent issued therefor as area of water surface and containing one hundred and forty-one and five hundred ninety-three thousandths (141.593) acres more or less. (Book 1 of Deeds, page 11.)

Beginning at the meandering stake on the north bank of the Spokane river where the north and south line between Sections numbered Three (3) and Four (4) of Township numbered Fifty (50) north of range numbered Five (5) west of the Boise Meridian, intersects said river; thence north on said section line Fifty (50) feet to the center of the proposed extension of Sixth Street as platted in Post Falls Townsite; thence east on the center line of said extension one thousand three hundred eighty-three (1,383) feet to the center of proposed Canal Street; thence southerly at right angles on the center of line of said proposed canal, eight hundred (800) feet to the center of the proposed extension of Fourth Street as platted in Post Falls townsite; thence in a westerly direction at a right angle, five hundred fifty (550) feet to a bank of the Spokane River; thence in a northwesterly direction following the meander of said

Spokane river one thousand two hundred thirty-six (1,236) feet or thereabouts, to the place of beginning containing fifteen and sixty-five hundredths (15.65) acres, more or less, except right of ways for streets; with the entire water rights of the Spokane River at Post Falls, Idaho, conveyed to the party of the first part by Frederick Post and Margaret Post, his wife, by deed dated October 9, 1891, and filed for record in the office of the recorder of Kootenai County, Idaho, on December 5, 1891, and of record in said office at page 280 of Book H of Deeds, and the use to and of all the waters, water power, water rights, easements, property, estate, rights, privileges and appurtenances acquired by said party in said deed. (Book U of Deeds, pages 412-413.)

Commencing at a starting point described as follows, Fifty (50) feet north of the meander corner stake on the north bank of the north channel of the Spokane River between sections three (3) and four (4) in Township Fifty (50) north, range five (5) west B. M.; running thence east one thousand three hundred eighty-five (1,385) feet to a point on the center line of Sixth Street of the town of Post Falls, Idaho; thence south one thousand one hundred twenty-four and four tenths (1124.4) feet to a point which is marked "A" on said blue-print; thence west two hundred ninety-three (293) feet to a point on the east bank of the north channel of the Spokane River which is the true place of beginning; running thence south from said true place of beginning ten degrees (10°) east, westerly one hundred (100) feet; thence south nineteen degrees (19°) east two hundred ten

(210) feet; thence south thirty-three degrees (33°) east two hundred ten (210) feet; thence east two hundred eleven (211) feet to the west bank of a canal or sluice; thence southerly along the west bank of said canal or sluice to a point at low water marked on the east bank of the north channel of said Spokane River; thence westerly around the point of land and thence northerly along the low water mark along the east bank of the north channel of said river to the true place of beginning. (Book 9 of Deeds, page 460.) [3]

Commencing at a starting point described as follows: Fifty (50) feet north of the meander corner stake on the north bank of the north channel of the Spokane River between sections Three (3) and Four (4) in Township Fifty (50) W. B. M.; running thence east one thousand three hundred eighty-five (1,385) feet to a point on the center line of Sixth Street, of the town of Post Falls, Idaho; thence south one thousand one hundred twenty-four and four tenths (1124.4) feet to the true place of beginning, which is marked "A" on said blue-print; running thence west from said true place of beginning two hundred ninety-three (293) feet to the east bank of the north channel of the Spokane River; thence south ten degrees (10°) east one hundred (100) feet; thence south nineteen degrees (19°) east two hundred ten (210) feet; thence south thirty-three degrees (33°) east two hundred ten (210) feet; thence east two hundred eleven (211) feet; to the west line of a canal or sluice; thence northerly along the west bank of said canal or sluice to a point; thence west

sixty-four (64) feet to the true place of beginning. (Page 462, Book 9 of Deeds.)

Commencing at a starting point described as follows: fifty (50) feet north of the meander corner stake on the north bank of the north channel of the Spokane River between sections Three (3) and Four (4) in Township Fifty (50) north of Range Five (5) W. B. M.; running thence east one thousand three hundred eighty-three (1383) feet to a point on the center line of Sixth Street of the Town of Post Falls, Idaho; thence south one thousand one hundred twenty-four and four-tenths (1124.4) feet to the true place of beginning, which is marked "A" of said blue-print. Running thence west from said place of beginning two hundred ninety-three (293) feet to the east bank of the north channel of the Spokane River thence south ten degrees (10°) east one hundred (100) feet; thence south nineteen degrees (19°) east two hundred ten (210) feet; thence south thirty-three (33°) degrees east two hundred ten (210) feet; thence east two hundred eleven (211) feet to the west line of a canal or sluice; thence northerly along the west bank of said canal or sluice to a point; thence west sixty-four (64) feet to the true place of beginning. Also commencing at said point on the east bank of the north channel of the Spokane River two hundred ninety-three (293) feet west of the point above described as the true place of beginning; thence south ten degrees (10°) east one hundred (100) feet; thence south nineteen degrees (19°) east two hundred ten (210) feet; thence south thirty-three degrees (33°) east two hundred ten (210) feet; thence east

two hundred eleven (211) feet to the west bank of a canal or sluice; thence southerly along the west bank of said canal or sluice to a point at low water marked on the east bank of the north channel of said Spokane River; thence westerly around to the point of land, and thence northerly along the low water mark along the east bank of the north channel of said Spokane River to the said point on the east bank of the north channel of said river two hundred ninety-three (293) feet west of said point above described as the true place of beginning. (Book 9 of Deeds, page 464.)

Commencing on a point on the south line of Fourth Street extended west, one thousand (1000) feet from the northwest corner of Block twenty-one (21) in the town of Post Falls, Kootenai County, Idaho; thence south parallel with Spokane street in said town, two hundred forty-six (246) feet; thence west parallel with the extension of Fourth street, one hundred [4] sixty (160) feet; thence north parallel with Spokane street two hundred forty-six (246) feet; thence east one hundred sixty (160) feet to place of beginning.

Also a strip of land described as follows: Commencing at a southwest corner of the above described land, running thence west four hundred eighty (480) feet to the brink or meander line of the Spokane river; thence north along said meander line, twelve (12) feet, thence east parallel with and twelve feet north of said first line, four hundred eighty (480) feet, more or less, to the west line of said first described tract; thence south twelve (12) feet to the

place of beginning.

Also a tract or parcel of land described as follows: Beginning at the northwest corner of Millsite deeded by Frederick Post and Margaret Post, his wife, to Charles M. Peterson and Hugh M. Strathern, at a point on the west line of the right of way of the spur of Spokane & Idaho railroad; thence west sixty (60) feet; thence north one hundred fifty (150) feet; thence west following the line of Charles M. Peterson and Hugh M. Strathern's Millsite and parallel with the cable right of way belonging to Cable Milling Company, party of the first part, being the strip of land last above described, to the meander line of the east bank of the Spokane River; thence northerly on said meander line thirty-eight (38) feet to its intersection with the south line of the aforesaid Cable right of way; thence easterly along south line of said Cable right of way and south line of Millsite of Cable Milling Company above described, to the intersection of the west line of said right of way of said Spokane & Idaho Railroad spur; thence south along said west line of said spur right of way one hundred eighty-eight (188) feet to place of beginning, containing within said boundaries the cross canal and the Spokane River.

All of said tracts of land herein described being situate in Section three (3) Township fifty (50) North of Range five (5) W. B. M., excepting rights through the main canal heretofore conveyed to the Post Falls Water Power Company; also excepting the reservation of lands within the limits of the proposed extensions of Canal street along the east bank

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of said Main canal, together with sufficient amount of water to create or afford two hundred (200) horse power under forty (40) foot head, said water to be used from the cross canal running from said main canal to the Spokane River, the same being situated at Post Falls in Kootenai County, State of Idaho, intending to remise, release and convey and forever quitclaim unto the second party all the water rights and privileges acquired or enjoyed by said first party by purchase, prescription, use or otherwise.

And upon that property there were certain dams, certain buildings and machinery. That the said property includes the banks and bed of the Spokane River at or near Post Falls, Idaho, where there is a natural waterfall, and upon said lands this plaintiff has constructed dams and an electric power plant and machinery for the purpose of generating and transmitting electric current and electric power; said current and power [5] being generated by water power, and transmitted and sold by this plaintiff for various purposes and uses.

VI.

That in the year 1911, the assessor of said Kootenai County, preparatory to assessing the lands of the plaintiff in said county, made a request of the plaintiff for a list of its said lands and property in said county. That thereafter this plaintiff caused to be made and transmitted to said assessor a list truly and correctly setting forth and describing all of the lands and property owned by the plaintiff and situated in said County of Kootenai, State of Idaho.

VII.

That save and except as aforesaid, the said assessor did not, nor did any of his deputies or assistants, or anyone acting or pretending to act for him or in his behalf, subsequently demand or request of or from this plaintiff any statement under oath or at all, setting forth specifically or at all the real and personal property or any property owned or controlled by plaintiff, either on the second Monday of January, 1911, at the hour of twelve o'clock noon, or at any time and no other or different request or demand for the statement of the property of plaintiff for the purposes of assessment or for any purposes was made upon the plaintiff by said assessor, his deputies or assistants or any of them, than the said request hereinbefore referred to and the said assessor advised this plaintiff at the time the said list was delivered to him, that that was all that he wanted or would require or desired from this plaintiff.

VIII.

That the said assessor did not nor did any of his deputies or assistants at any time in said year 1911 fill out or deliver [6] to plaintiff a statement of the properties of the plaintiff or present or deliver any statement to plaintiff or require plaintiff to fill out any such statement or return any such statement to said assessor properly filled out or at all.

IX.

That the said list delivered by plaintiff to said assessor was duly received by said assessor and was accepted and filed by him, and no entry by said assessor or by anyone was made or noted in said as-

essor's book of assessments of said Kootenai County opposite the name of plaintiff, or at all, of any refusal by plaintiff to give under oath or at all a statement of its property, real and personal, in said county or of any refusal by plaintiff to comply with any of the requirements of the laws of the State of Idaho, and plaintiff alleges that in truth and in fact it did not fail or neglect or refuse to comply with any such requirements.

X.

That thereafter and during the said year 1911, the said assessor of Kootenai County, Idaho, made his pretended assessment of plaintiff's property in said county for the purpose of levying taxes against the said property for the year 1911, for State, county and other purposes and prepared and made a certain pretended assessment-roll wherein he set forth the description of the property so pretended to be assessed by him, and the valuations at which he pretended to assess such property and in said roll the said assessor set forth and described as the property of the plaintiff those certain tracts and parcels of land and other property of the plaintiff as follows:

On page 11, Book 1 of Deeds, situate in Sec. 3 and 4, Twp. 50, Range 5.

On pages 412 and 413, Book "U" of Deeds in Sec. 3, Twp. 50, Range 5. [7]

On pages 460, 461, 462, 463, 464, and 465, Book 9 of Deeds in Sec. 3, Twp. 50, Range 5.

On page 97, Book 34 of Deeds, Grist-Mill in Sec. 3, Twp. 50, Range 5.

Bear trap dam and small dam at Post Falls in Sec. 3, Twp. 50, Range 5.

Buildings and excavating in Sec. 4, Twp. 50, Range 5.

Machinery on Island #2, Sec. 4, Twp. 50, Range 5.

Concrete foundation and dam, Sec. 4, Twp. 50, Range 5.

Railway spur and bridge.

being the same property which was and is in fact the property particularly described in paragraph V hereof. And the said assessor did, in addition thereto assess as against this plaintiff a railroad spur and bridge situated upon said property, and said assessor did extend the same upon the said pretended assessment-rolls, and did set forth as his assessment and valuation thereof the sum so assessed against the plaintiff's property, and did list and pretend to assess the same as follows:

On page 11, Book 1 of Deeds, situated in Sec. 3 and 4, Twp. 50, Range 5; and on pages 412 and 413, Book "U" of Deeds, in Sec. 4, Twp. 50, R. 5.....	\$1080000
On pages 460, 461, 462, 463, 464 and 465, Book 9 of Deeds in Sec. 3, Twp. 50, Range 5.....	75000
On page 97, Book 34 of Deeds, Grist-mill in Sec. 3, Twp. 50, Range 5	40000
Bear trap dam and small dam at Post Falls	562500

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Building and excavation, Sec. 4, Twp. 50, R. 5.....	223000
Machinery on Island #2, Sec. 4, Twp. 50, Range 5.....	350000
Concrete foundation and dam, Sec. 4, Twp. 50, R. 5.....	150000
Railway spur and bridge.....	48750

And in addition thereto said assessor did assess the other lands and property of the plaintiff in said Kootenai County, Idaho.

XI.

That on the said second Monday in January, 1911, at twelve o'clock noon, the plaintiff was the owner of all of said property, except the said railroad bridge and spur, to which reference is hereby particularly directed, and which is particularly described and referred to hereinafter. [8]

XII.

That this plaintiff at and prior to the time of the assessment of its said property by the said assessor did state to the said assessor that for the purpose of determining the cash value thereof for purposes of taxation said assessor was welcome to use and examine the books, records and papers and cost sheets of the plaintiff for the purpose of determining the actual cost and actual cash value thereof.

That the said assessor did state to the plaintiff that he did not desire plaintiff to fix in its said return the values of its said property, and neglected and refused to investigate the cost sheets, books and records of the plaintiff for the purpose of determining the actual cost of said property for the purpose

of determining its full cash value, and neglected, refused and failed to make any real investigation whatever of the value of the property of the plaintiff above described for the purpose of determining its full cash value, and the said assessor, in disregard of the rights of plaintiff and in violation of its rights and without notice to the plaintiff, arbitrarily pretended to assess the property of the plaintiff as hereinbefore alleged.

XIII.

That the said pretended assessment so made by the said assessor was made without ascertainment of the facts regarding the value of said property, without an investigation or inspection thereof, or a request to be permitted to inspect the same or notice to the plaintiff that he desired to inspect the same or any further inquiry as to the value of the same, and without an investigation of the books, records and papers of this plaintiff which would have shown both the cost thereof and full cash value thereof; and plaintiff alleges the said assessor [9] was requested to go and examine said property by plaintiff, but declined and refused to make such inspection.

XIV.

Plaintiff further alleges upon information and belief that during the year 1911 the said defendant assessor assessed practically all of the other property within the County of Kootenai, State of Idaho, save and except that owned by this plaintiff and described by the said assessor in his said pretended assessment-rolls as follows:

At a value of not to exceed from 30% to 60% of the actual cash value of said property. Plaintiff alleges that all of the other property in Kootenai County save and except the property of this plaintiff was during the year 1911 assessed at not to exceed from 30% to 60% of its actual cash value.

XV.

That in pretending to reach the actual and full cash valuation of the property of this plaintiff, the said assessor did fraudulently, wrongfully, arbitrarily and without investigation or attempt to secure information, assess the property of this plaintiff hereinbefore described at more than twice its actual cash value, and thereupon extended the same upon the said pretended assessment-rolls as the said assessment so arrived at by him as the full cash value thereof.

XVI.

Plaintiff further alleges that the said assessor wrongfully and unlawfully, for the purpose of compelling the plaintiff to pay an unjust and unreasonable proportion of the taxes of the said Kootenai County, State of Idaho, wilfully and knowingly assessed the property of this plaintiff at more than twice its actual and full cash value, and the said assessor wrongfully [10] and unlawfully intended and was intending at all such times to assess the property of this plaintiff at more than twice its actual cash value and thereby compel this plaintiff to pay many times the amount of its just proportion of the taxes of Kootenai County, Idaho.

That after said pretended taxes had been ex-

tended by the said assessor upon his pretended tax-rolls, the county auditor of the said County of Kootenai delivered said assessment-rolls to the tax collector of said county for the collection of said taxes.

XVII.

Plaintiff further alleges that the said assessor discriminated against this plaintiff and in favor of all other owners of property in the County of Kootenai, and particularly against this plaintiff and in favor of the other owners of property of similar character and class and of property used for manufacturing purposes, and in favor of the other owners of machinery and against this plaintiff; and plaintiff alleges that as a result thereof it is required to bear more than its just burden of taxes within the said County of Kootenai, and that the taxes pretended to be assessed and levied against the other property within the County of Kootenai of similar character are not uniform as required by the laws and Constitution of the State of Idaho, the property of this plaintiff being taxed at a greater rate proportionately than the property of the same class of other persons and corporations. That in all instances property used for manufacturing purposes and property held and owned by individuals or corporations organized under the laws of the State of Idaho and particularly by residents and citizens of Kootenai County of the same character and class as [11] the property of plaintiff were not assessed for more than 60% of their full cash value, and none of them in excess of their cash value, whereas, the property of this plaintiff as described above was assessed at

more than its actual cash value and more than twice its actual cash value, all of which constitutes unlawful and wrongful discrimination against this plaintiff and in favor of other taxpayers in said Kootenai County.

XVIII.

That by reason of the facts hereinbefore set forth a fraud has been committed against this plaintiff and the property of the plaintiff overvalued as compared with other property in the County of Kootenai of the same kind and character, and as compared with all other property in the County of Kootenai, and plaintiff has been so discriminated against in the said pretended assessment as that it is required thereby, if the same be legal, to pay more than its just proportion of the taxes of said county, and a gross injustice has been done plaintiff and a gross discrimination in the assessment and taxation of the property of the plaintiff existed and does exist in Kootenai County.

XIX.

Plaintiff further alleges that the said assessor did so wrongfully, arbitrarily and unjustly assess and pretend to assess and value the plaintiff's property through prejudice and bias against the plaintiff, for the reason that it is a foreign corporation, and for the further reason that the plaintiff is now and was during the said year 1911 in litigation with various persons in the County of Kootenai, State of Idaho, many of whom had or claimed to have political power and influence, and was seeking to acquire, condemn and appropriate [12] a considerable

quantity of lands in the said County of Kootenai, State of Idaho, overflowed by its said dam for power development, and that bias and prejudice exists and existed during the said year 1911 in the said Kootenai County against this plaintiff because of the pendency of the said actions wherein it sought to acquire and condemn the said land, and that the said assessor acted for the said reasons, among others, in so wrongfully, fraudulently and unlawfully assessing the property of this plaintiff.

XX.

Plaintiff further alleges that at the regular meeting of the Board of Equalization of Kootenai County, Idaho, held in the month of July, 1911, this plaintiff appeared and made application to the County Board of Equalization for a reduction of the values placed upon its property hereinbefore referred to, including the said railroad bridge and spur. That the plaintiff filed before the said Board of Equalization of the County of Kootenai, State of Idaho, a petition in writing verified by the General Manager and Agent of this plaintiff, a copy of which said petition is attached hereto, marked Exhibit "A" and made a part of this complaint, which was the day which the said board had fixed for the hearing of this plaintiff concerning the valuations placed by the said assessor upon its said property.

That thereupon witnesses were called on behalf of the plaintiff, and under oath testified before the said board and were examined by the said board and its attorney, and at which said meeting the said assessor was present, and also made a statement to

the said board, and at said hearing this plaintiff [13] made a showing of facts, and showed to the said board that the said valuations so pretended to be placed upon its said property by the said assessor were wrongful, excessive and more than twice the actual cash value and full cash value of the property hereinbefore described, and it appealed to the said Board of Equalization for relief. That the said matter was taken under advisement by the said board, and thereafter and on the 28th day of July, 1911, the said board passed upon the application of this plaintiff, and ordered that the assessment on a certain building located on the Indian Reservation be reduced from \$600 to \$25, and the assessment on a branch power line in Kootenai County be reduced from 25 miles to 23 miles; and as to all of the balance of plaintiff's application and petition, the said Board of Equalization arbitrarily, in conflict with the facts so before it, unjustly, wrongfully and illegally declined, refused and neglected to give to plaintiff any relief whatever, and ordered the said assessment so pretended to have been made by the said assessor to stand as the assessment upon the plaintiff's property hereinbefore described.

That the said action of said Board of Equalization in sustaining the said overvaluation in the said assessment of plaintiff's property constituted an unlawful and illegal and fraudulent discrimination against this plaintiff and in favor of all other owners of property in the County of Kootenai, State of Idaho, and constituted a discrimination as against the property of this plaintiff and the assessed valu-

ation thereof as compared to other property of like class and character in the County of Kootenai, State of Idaho.

XXI.

Plaintiff further alleges that at the said hearing this plaintiff requested the said board, either by themselves or by [14] some competent person selected by them for that purpose, at the expense of the plaintiff, to make a physical investigation and examination of the property of the plaintiff for the purpose of determining its full and actual cash value, and plaintiff offered to submit to the said board or any person selected by it, its books, papers and records showing the actual cost and full cash value of all of said property and in addition thereto to turn over to the said board or its representative for investigation and examination all of its books and records for the purpose of showing the production of the said plant, its earnings and expenses in connection with the maintenance and operation thereof for the purpose of ascertaining the full and actual cash value thereof, or for the purpose of assisting the said board in arriving at a fair and just assessment of the said property and a fair and just determination of its full cash value.

That the said board declined, refused and neglected to accept the said offer of the plaintiff or to appoint any such person or to make any such investigation or investigations, but arbitrarily and without investigation or attempt to secure information, and in direct conflict with the facts as shown by the testimony produced before the board, affirmed and

confirmed the action of this defendant, Fred E. Wonnacott, in so wrongfully, illegally, fraudulently and arbitrarily assessing or pretending to assess the said property of the plaintiff at a sum far in excess of its full and actual cash value.

That at said hearing before said board there was no testimony or evidence supporting, justifying or showing or pretending to show the value of said property of the plaintiff to be as [15] assessed by the said assessor, and the said assessor simply submitted, without investigation, inspection or knowledge of the full or actual cash value of said property a statement, which said statement showed the bias and the prejudice which the said assessor had against this plaintiff; and the said board wilfully, wrongfully, arbitrarily and fraudulently, without further or other investigation and without justification in the facts before it, denied relief to this plaintiff and ordered that the said pretended assessment so pretended to have been made by the said assessor to stand.

XXII.

Plaintiff further alleges that the said Board of Equalization was biased and prejudiced against this plaintiff. That one member, to wit, John L. Ferguson, was in litigation with this plaintiff at the time he sat upon the said board and during the entire year 1911. That the said Ferguson entertained bitter personal bias and prejudice against this plaintiff. That at the time the said Ferguson sat and acted as a member of said board and during the year 1911, there was pending in the Circuit Court of the

United States for the District of Idaho, Northern Division, an action brought on behalf of this plaintiff to acquire certain low lands owned by the said Ferguson. That the said Ferguson had appeared in litigation as a witness against this plaintiff; that in addition thereto there was pending in the said Circuit Court of the United States for the District of Idaho, Northern Division, a suit by the said Ferguson against the plaintiff for damages in the sum of \$8,000; that the said Ferguson repeatedly demanded and asked of this plaintiff large and exorbitant sums in settlement of said litigation, and for the said lands which the plaintiff required [16] in the performance of its public duty. That the said Ferguson demanded of this plaintiff the sum of \$7,500 in settlement thereof, and in his complaint asked for the sum of \$8,000, which said sums were exorbitant and unreasonable; and when the said cause was tried out and determined before referees appointed by the Circuit Court of the United States for the District of Idaho, Northern Division, the said Ferguson was allowed the sum of \$1,779.25, with interest thereon as the full value of the said lands so sought to be acquired by plaintiff and the damage to the remainder thereof by reason of its severance, which said report of referees was filed December 11, 1911. That the said Ferguson, because this plaintiff did not submit to his exorbitant and unreasonable demands, entertained hostile and bitter feelings against this plaintiff, and plaintiff alleges that he is informed and believes and therefore upon such information and belief states the facts to be that the said Ferguson,

while running for the office of County Commissioner did in a large measure base his campaign upon the fact that he was opposed to this plaintiff and hated this plaintiff.

XXIII.

That the application of this plaintiff so made to the Board of Equalization was as hereinbefore alleged of no avail and fruitless and said board declined, neglected and refused to render unto this plaintiff the relief to which it was entitled.

Plaintiff alleges that it has exhausted the remedies provided by the statutes of the State of Idaho to secure a just valuation and assessment upon its property.

XXIV.

Plaintiff alleges that thereafter by an order of the State Board of Equalization all real property in the County of Kootenai, State of Idaho, was reduced 15%, including the property [17] of this plaintiff, but that it was all real property, and that the said unjust, unreasonable and illegal and fraudulent discrimination still exists, and that the said order of the State Board of Equalization did not in any wise affect the discrimination as against this plaintiff and in favor of all other real property in the County of Kootenai, State of Idaho.

XXV.

Plaintiff further alleges that the method which was adopted by the said assessor in assessing the said property was an incorrect and improper method in this, that the said lands herein described, together with the dams, buildings and machinery,

constitute together a power plant, and that the same and the whole thereof should be assessed as one item, namely, the said lands, together with the dams, power plant, machinery, buildings and equipment situated thereon.

Plaintiff further shows that the lands described as follows:

On page 11, Book 1 of Deeds, situate in Sec. 3 and 4, Township 50, Range 5.

On pages 412 and 413, Book "U" of Deeds in Sec. 3, Township 50, Range 5.

On pages 460 to 465 inclusive, Book 9 of Deeds, in Sec. 3, Township 50, Range 5.

On page 97, Book 34 of Deeds, Grist-mill in Sec. 3, Township 50, Range 5.

constitute one piece of property, all of which is adjoining and contiguous, and should be assessed as one piece of property, and each piece is necessary to the other in the improvement of said water power.

XXVI.

Plaintiff alleges that said assessor adopted with reference to the assessment of the property of this plaintiff a different system from that of other manufacturing plants and property [18] in the said county in pretending to segregate its said property, all of which is contiguous and is a part of one manufacturing plant, whereas with reference to all other manufacturing plants and property in the said Kootenai County, the said assessor has not pretended to segregate the machinery and buildings, but has assessed the same together as one piece of property; and plaintiff alleges that that is the only method by

which the same can be fairly and reasonably assessed.

Plaintiff further alleges that if the said property is to be segregated out in substantially the same manner as the same has been assessed, that the said assessments should not exceed the following amounts:

Certain property situated near Post Falls, Kootenai County, Idaho, particularly described on page 11 of Book 1 of Deeds, and on pages 412 and 413 of Book U of Deeds, containing 270 acres more or less.

That certain property described as pages 460 to 465 of Book 9 of Deeds in Township 50, North of Range 5 W., B. M., in Section 13 thereof.

That certain land with a certain grist-mill situated in Section 3, Township 50, North of Range 5 W., B. M., the property being described on page 97, Book 34 of Deeds, \$97,986.40.

All dams and fixtures therein at Post Falls, \$331,626.00.

All buildings connected with power plant and used in connection therewith, and mentioned above, \$100,205.00.

All machinery in power-house and connected with power plant, \$313,236.00.

XXVII.

Plaintiff further alleges that it is impossible for it [19] and that it was impossible for the said assessor to segregate the value of the various dams. That in the construction thereof the cost of said dams was kept by the plaintiff as one item and one dam is valueless and useless without the others.

Plaintiff further alleges that the full cash value of the following described property, to wit:

That certain property situate near Post Falls, Kootenai County, Idaho, particularly described on page 11 of Book 1 of Deeds, and on pages 412 and 413, Book "U" of Deeds;

That certain property described on pages 460 to 465, Book 9 of Deeds, situate in Section 13, Township 50 N., R. 5 W., B. M.

That certain parcel of land with a grist-mill, situated in Section 3, Township 50 North, Range 5 W., B. M., the property being described on page 97, Book 34 of Deeds;

Bear Trap dam and small dam at Post Falls in Section 3, township 50 N., R. 5 W., B. M.

Building and excavating in section 4, Township 50 N., R. 5 W., B. M.

Machinery on Island No. 2 in Section 4, Township 50 N., R. 5 W., B. M.

Concrete foundation and dam in Section 4, Township 50, N., R. 5 W., B. M.

was not in excess of the sum of \$843,053.40 on the second Monday in January, 1911. That if the value of said property on the said second Monday in January, 1911, has been based upon its actual cost to the plaintiff, that the value thereof would not exceed the sum of \$854,339.42, and that based upon its earning capacity, the said property could not in any event be held to be any greater value than the sum of \$843,053.40.

XXVIII.

Plaintiff alleges that if the plaintiff is to be per-

mitted to make an earning of 10% per annum upon its said investment, which as plaintiff alleges is a reasonable return and no more, any assessment in excess of the sum of \$843,053.40 would be an unreasonable and unjust and excessive assessment and would reduce the earnings from the said plant and said property hereinbefore described below 10% upon said property. And if the full cash value of said property should be determined, based upon the earning capacity, then the full cash value [20] thereof on the second Monday in January, 1911, did not exceed the sum of \$843,054.40, and that if the actual cost thereof to the plaintiff is to be determined, the value of said property did not exceed the sum above given, to wit, \$854,339.42.

XXIX.

Plaintiff further alleges that the said business in which the plaintiff is engaged of generating, distributing and selling electric power and energy, should return 10% upon the investment. That the same is a hazardous investment, subject to many changes as knowledge concerning electricity, its generation and transmission is developing, and that such an investment is not a safe one unless the investor is permitted to earn 10% thereon. That moreover the demand for electricity fluctuates. That the plaintiff in large measure, for the sale of the electricity generated at the said plant, depends on the mines and concentrators situated in Shoshone County, Idaho; that the demand for electricity from that source is not constant, but fluctuates, and the return upon the said investment is hazardous and depends upon the

market for the products of the said mines, the stability and permanency of the mines. That plaintiff is informed and believes and upon such information and belief alleges the fact to be that in mining it is considered that the investor should receive at least the sum of 14% upon the said investment. That a large part of plaintiff's investment depends upon and is dependent upon the production, stability and life of the mines of said Coeur d'Alene Mining District, and that by reason of all of said facts the said return of 10% is not excessive, but is a just and reasonable return for such a hazardous investment. [21]

XXX.

Plaintiff further alleges that that property assessed against this plaintiff and described on the said pretended assessment-roll as "Railroad spur and bridge" assessed at \$48,740, was a small spur and bridge across one of the channels of the Spokane River, constructed as a temporary spur at the time of the construction of said power plant; that the same has not since been used by the plaintiff. That the bridge is not worth in excess of the sum of \$2,000; that the same did not cost to exceed \$5,000 when new and has practically no use at this time as it was put in for temporary use.

Plaintiff further says that the rails thereon were not the property of the plaintiff, but were simply borrowed from the Northern Pacific Railway Company for use in the construction of said power plant. That the said rails did not on the second Monday in January, 1911, have a value in excess of the sum of \$2,500; that the said railroad spur had been aban-

done prior to the second Monday in January, 1911, and the Northern Pacific Railway Company had been requested to remove the said rails. That the said property so assessed at said sum of \$48,750 had no value whatever, except the value of the rails and the small present value of the railroad bridge; and plaintiff says that the said property last described was assessed at far in excess of its full cash value on the second Monday in January, 1911.

XXXI.

Plaintiff further alleges that in Kootenai County there are large areas of valuable farm lands worth from \$200 to \$300 per acre and so valued and held by the owners thereof, having an actual cash value of from \$200 to \$300 per acre and a market [22] value of from \$200 to \$300 per acre on the second Monday in January, 1911. That the said assessor wilfully, knowingly and designedly placed the same upon the assessment roll and listed the same at a valuation of from \$100 to \$125, thereby intending to favor the owners of said irrigated lands and to discriminate against this plaintiff and establish in respect to the same a different system of valuation than that which he used with reference to the property of the plaintiff, in the one case assessing the said farm lands at from 30% to 60% of their actual cash value and in the case of the plaintiff's property assessing the same at more than twice its actual cash value, thereby creating a gross, unequal valuation of the property of the plaintiff compared with the farming property situated in the said Kootenai County, and thereby placing and intending to place and attempt-

ing to place an unequal burden upon this plaintiff, all of which constitutes fraud against this plaintiff, and is an attempt on the part of said assessor and said Board of Equalization to throw upon the plaintiff a larger taxation than is just and equal.

XXXII.

Plaintiff further alleges that it generates the said power as a public service corporation; that the property of other public service corporations in the County of Kootenai, State of Idaho, as assessed by the said assessor during the year 1911 at not to exceed from 30% to 60% of its actual cash value, and that all property of public service corporations in Kootenai County except the property of this plaintiff, was during the year 1911 assessed at not to exceed 30% and 60% of the actual cash value thereof; and the property of this plaintiff was assessed at more than twice the full and actual cash value thereof, and proportionately higher than other property of like kind and character for the purpose of and with the intention of discriminating [23] against the plaintiff and in favor of the other public service corporations in said Kootenai County, in order to burden this plaintiff with more than its share of the taxes of said county.

XXXIII.

Plaintiff further alleges that on the — day of December, 1911, it tendered to the tax collector of Kootenai County, Idaho, authorized by law to receive and receipt for said taxes, all taxes that were due or might be levied upon the property hereinbefore described, in the sum of \$13,878,25, which sum

so tendered in payment of said taxes was all that could be legally levied upon said property, and which said sum the assessor and *ex-officio* tax collector refused to receive or receipt for, and the said assessor and *ex-officio* tax collector did refuse to accept the same and credit the same upon taxes assessed against the plaintiff for the County of Kootenai, State of Idaho, and did state to this plaintiff that he would accept no sum whatever except the full amount of taxes pretended by him to be assessed and extended upon the tax-roll, at the said unlawful, fraudulent and grossly unjust assessment hereinbefore referred to.

XXXIV.

Plaintiff further alleges that the plaintiff made the said tender upon the basis of valuation for assessment purposes of \$854,339.42. That the said basis upon which this plaintiff tendered the said money was greater than the valuation for assessment of other property of like kind, character and value within the County of Kootenai, State of Idaho, and was upon the full cash value thereof, whereas, all other property in [24] the County of Kootenai, State of Idaho, was assessed at less than its full cash value during the year 1911. And plaintiff alleges that the said tender was upon an eminently proper and just valuation, and upon the full cash value of its property.

That at the time of the said tender to the said tax collector, plaintiff stated to the said tax collector that it did not ask a receipt in full, but simply offered to pay that money which it admitted was the levy upon

its property assessed at its full cash value. That the said tax collector stated to plaintiff that he would not receive or receipt for any sum as taxes on said property of the plaintiff less than the total tax levied upon the same. Plaintiff alleges that it has tendered the amount legally due upon the said property to the said tax collector, and that plaintiff has been at all times and is now ready and financially able to pay any and all fair and just taxes levied against the said plaintiff's properties and each and all thereof, and to pay any and all taxes justly and legally due upon its said property and upon every part thereof and upon all thereof, and that it has at all times so advised the defendants, and plaintiff now offers to bring into Court and to deposit with the Court or with the clerk thereof, or in such depository as the said Court shall direct, such sum of money as the Court shall direct to be applied for the payment of all or any taxes, such taxes as the Court shall adjudge to be justly and equitably due upon the property of the plaintiff hereinbefore described.

Plaintiff further offers and agrees to pay any and all taxes which may be adjudicated herein to be just and equitable, which said taxes this plaintiff here and now agrees to pay.

XXXV.

Plaintiff further alleges that the defendants wrongfully pretend that the plaintiff is indebted to the said Kootenai [25] County, Idaho, for taxes as follows, to wit:

That property described on page
11, Book 1 of Deeds, in Sec. 3

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and 4, Twp. 50 N., R. 5 W., and on pages 412 and 413, Book "U" of Deeds, in Sec. 4, Tp. 50 N., R. 5 W.....	\$14917.50
On property described in pages 460 to 465, inclusive, Book 9 of Deeds, in Sec. 3, Twp. 50 N., R. 5 W., B. M.....	1045.50
On property described on page 97, Book 34 of Deeds, Grist-mill, Sec. 3, Tp. 50 N., R. 5 W.....	557.60
Bear Trap dam and small dam at Post Falls, Sec. 3, Twp. 50 N., R. 5 W., B. M.....	7840.84
Building and excavating, Sec. 4, Tp. 50 N., R. 5 W.....	3013.85
Machinery on Island #2, Sec. 4, Tp. 50 N., R. 5 W.....	5565.
Concrete foundation and dam, Sec. 4, Tp. 50 N., R. 5 W.....	2035.20
Railway spur and bridge.....	679.58
making a total of taxes so wrongfully demanded of plaintiff by the defendants of \$35,655.07, all of which taxes are levied and demanded without warrant of law and in violation of the rights of plaintiff, save and except the sum of \$13,878.25.	

XXXVI.

Plaintiff further alleges that the said assessor and *ex-officio* tax collector of Kootenai County, Idaho, after the said tender of this plaintiff and the refusal to accept the same, the said taxes not having been paid for the reason hereinbefore set forth, marked the said taxes upon the property of this plaintiff,

hereinbefore described, as delinquent and thereafter, to wit, after the first Monday in January, 1912, claimed and demanded in addition to the amount of said taxes aforesaid, a penalty upon each and every amount of said tax of 10% thereof. That the said defendants threaten that they will publish a notice in which they will offer for sale and will sell the said property belonging to the plaintiff for the amount of said taxes claimed to be due and delinquent thereon and for the said penalty and for the cost of the publication; [26] and plaintiff alleges that the said defendant tax collector will, unless restrained and enjoined by an order of this Court, so publish a notice, that he will sell, and, unless restrained by an order of this Court, will offer the lands and property of this plaintiff for sale and pretend and attempt to sell the same in the manner prescribed by law for the sale of lands for delinquent taxes, and that each and every part thereof will be separately offered for sale and be separately sold to the person who will take the least quantity of said property and pay the said pretended taxes, penalty and cost claimed to be due, and the said tax collector gives out and threatens that he will make out and deliver to the purchasers of such pieces of property so sold a certificate showing such sale, which certificate will entitle the said purchaser to a deed from the county conveying said lands and said property so purchased, at the expiration of three years if the same be not sooner redeemed.

XXXVII.

Plaintiff further alleges that the said pretended taxes constitute and are and will be an apparent lien

upon the title to the said respective pieces of property against which the same are assessed and levied, as hereinbefore set forth, and are a cloud upon the title thereto. That by the sale of said respective pieces of property described herein and threatened and intended to be sold by the tax collector as hereinbefore set forth, the said County of Kootenai and the said assessor and *ex-officio* tax collector will assign and transfer to many different parties and corporations the liens which it now claims upon the different parcels of the property, and should the said defendant carry out the threatened and expressed [27] intention of making public sale or any sale of said property of the plaintiff or any thereof for said alleged taxes as hereinbefore mentioned and set forth, the said sale would constitute a cloud upon the title of plaintiff to the property, and work great wrong and injury to the plaintiff. Plaintiff will be put to great and unnecessary costs for which it can receive no compensation; that at the expiration of three years if the said property be not redeemed from said sale, the purchasers thereof at such threatened sale for delinquent taxes will be entitled to and will receive deeds from the county of Kootenai, purporting to convey to the said purchasers the fee title to such property, but such deeds will be invalid upon their face and will constitute and be a cloud upon the title to such respective pieces of property, greatly impairing and destroying their market value to the plaintiff.

XXXVIII.

That a large portion of said pretended taxes have

been levied and are claimed by the said defendants for the payment of taxes levied by the State of Idaho, and if said taxes should be paid by plaintiff, such portion thereof would be by the said county paid into the State treasury, and plaintiff could not recover the same or any portion thereof. That a portion thereof, as plaintiff is informed and believes, has been levied for such school district and road district purposes, and if plaintiff should pay the same, such portion would be paid over and transferred to the respective road districts and school districts, and plaintiff would, in order to recover such unlawful taxes so paid, be compelled to bring separate suits against said Kootenai County and each of said road districts and school districts, and would be thereby compelled to bring a multiplicity of suits. [28]

XXXIX.

That plaintiff has no plain, speedy or adequate remedy at law or any remedy whatsoever, save and except as herein prayed. That the value of the matter in dispute in this action exceeds, exclusive of interest and costs, the sum of Five Thousand Dollars.

WHEREFORE, in consideration of the premises, and inasmuch as your orator is remediless save in a court of equity where litigation of this and a like nature are properly cognizable and relievable, and to the end that they may appear and answer all and singular the matters and things in this bill of complaint, but without oath to their answer, your orator expressly waiving the oath of the said defendant to their answer, your orator prays:

I.

That the said defendant, Fred E. Wonnacott, assessor and *ex-officio* tax collector of the County of Kootenai, State of Idaho, his deputy and deputies, successor and successors and their deputy and deputies, and each of them, be forever enjoined and restrained from selling the property of the plaintiff described in the bill of complaint for the taxes levied, *as forth* in said bill, or from in any way proceeding to collect the same in any manner until such time as your Honors shall appoint, direct and order herein, and that an order be issued under the seal of this Court so enjoining and restraining the said defendant, his deputy and deputies, and successor and successors, and their deputy and deputies and each of them, and that upon the hearing the writ herein prayed for be continued in force until the final determination of this suit, and that thereupon the said injunction be made perpetual. [29]

II.

That the said pretended taxes be declared, and each and all thereof be declared null and void, and that the said defendant county be enjoined and restrained from asserting or attempting to assert any lien upon said several pieces of property or any thereof for or on account of said pretended taxes.

III.

That the Court ascertain and determine what taxes are fairly and equitably due upon the property of the plaintiff described in the bill of complaint, and that upon the payment thereof to the defendant tax collector, his successor or successors in office, the said de-

defendant county, its officers and agents, be required and commanded to accept the same as in full for the taxes for the year 1911, upon the said property of the plaintiff, and to enter said taxes against said property upon the books of said county as paid in full, and that the defendant county, its officers and agents and their successors in office and the successors of each of them be forever enjoined and restrained from asserting or attempting to compel any other or further taxes upon said property for the year 1911.

IV.

That the plaintiff have such other and further relief as may be consistent in the premises and with the principles of equity, including its costs and disbursements herein.

JOHN P. GRAY,

Attorney for Plaintiff.

Residence and Postoffice Address, Coeur d'Alene Idaho. [30]

State of Idaho,

County of Kootenai,—ss.

On this 2d day of May, 1912, before me, personally appeared A. F. S. Steele, the Secretary of the Washington Water Power Company, the complainant above named, who being by me duly sworn deposes and says that he is the Secretary of the Washington Water Power Company and familiar with its business, and that he has read the foregoing bill of complaint and knows the contents thereof, and that the same is true of his own knowledge except as to the matters therein stated on information and belief, and

as to those matters he believes it to be true.

A. F. S. STEELE.

Subscribed and sworn to before me this 2d day of May, 1912.

[Notarial Seal]

F. MEADE,
Notary Public. [31]

Exhibit "A" [to Bill of Complaint].

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF KOOTENAI COUNTY, STATE OF IDAHO.

A COUNTY BOARD OF EQUALIZATION.

In the Matter of the Application of THE WASHINGTON WATER POWER COMPANY for a Reduction and Equalization of the Assessment of Its Property Situated in Kootenai County, Idaho.

To the Honorable, the Board of County Commissioners of Kootenai County, State of Idaho:

The Washington Water Power Company, a corporation organized and existing under and by virtue of the laws of the State of Washington, and authorized to do business within the State of Idaho, and within the County of Kootenai, State of Idaho, hereby respectfully petitions your Honorable Board sitting as a Board of Equalization, to reduce the valuations placed upon certain of its property by Fred E. Wonnacott, Assessor and *Ex-officio* Tax Collector of Kootenai County, Idaho, for the year 1911 and respectfully represents:

I.

That it is now and at all of the times hereinafter

mentioned has been a corporation duly organized and existing under and by virtue of the laws of the State of Washington, and duly authorized by virtue of a full compliance with the Constitution and laws of the State of Idaho relative to foreign corporations to do business within the State of Idaho, and is authorized by virtue of such compliance to take and hold title to property in the County of Kootenai, State of Idaho.

II.

That on the second Monday of January, 1910, it was the [32] owner of the following described property situate and being within the County of Kootenai, State of Idaho, to wit:

Certain property situated near Post Falls, Kootenai County, Idaho, particularly described on page 11 of Book 1 of Deeds, and on pages 412 and 413 of Book "U" of Deeds, containing 270 acres more or less.

That certain property described at pages 460 to 465 of Book 9 of Deeds in Township 50, North of Range 5 W. B. M. in Section 3 thereof.

That certain land with a certain grist mill situated in Section 3, Township 50 North of Range 5 W. B. M., the property being described on page 97 of Book 34 of Deeds.

A bear trap dam and other dams in the three channels of the Spokane River within the property above described.

Certain buildings and machinery constituting an electric power plant situated upon and within the property above described.

III.

That the property which has been particularly hereinbefore described has been assessed by the said Fred E. Wonnacott, Assessor and *Ex-officio* Tax Collector of Kootenai County, Idaho, in the following manner and at the following valuations, to wit:

As described at page 11, Book 1 of Deeds, and on pages 412 and 413, Book U of Deeds, containing 270 acres (power site)	\$1,080,000.00
Lots 1, 2, 3, and 4, Section 9, Township 54, and Lots 1, 2, 3, and 4, Section 8, Township 50	21,905.00
As described at pages 460 and 465, Book 9 of Deeds, Section 3, Township 50 North of Range 5	75,000.00
As described at page 97, Book 34 of Deeds, Grist Mill, Section 3, Town- ship 50, North of Range 5 W. B. M.	40,000.00
Bear trap dam and small dam at Post Falls	562,500.00
[33]	
Building and excavations	223,000.00
Machinery on Island No. 2	350,000.00
Concrete Foundation and dam	150,000.00

That the said Assessor, Fred E. Wonnacott, in making the said assessments wrongfully and unlawfully assessed the same at a sum far in excess of the full cash value of the said property, and thereby this petitioner would be compelled to pay an unjust and unreasonable proportion of the taxes of said Kootenai County, Idaho.

That the full cash value of the said property of this petitioner was not in excess of the sum of \$843,053.40 on the second Monday of January, 1911.

That the value of the said property on the second Monday of January, 1911, if based upon its actual cost to this petitioner, did not exceed the sum of \$854,339.42 and based upon its earning capacity, the said property could not in any event be held to be of greater value than the sum of \$843,053.40.

That if this petitioner is to be permitted to make an earning of 10% per annum upon its investment, which is as petitioner alleges a reasonable return and no more, any assessment in excess of the sum of \$843,053.40 would be an unreasonable, an unjust and an excessive assessment, and would reduce the earnings below 10% upon said property, and if the full cash value of the property should be determined based upon the earning capacity, then the full cash value thereof on the second Monday of January, 1911, did not exceed the sum of \$843,053.40. [34]

IV.

That in assessing the property of Kootenai County, Idaho, for the year 1911, the said Assessor has assessed all other property within the said Kootenai County save and except that owned by this applicant at not to exceed 70% of the actual cash value of said property, and the assessments which have been placed upon all other property within said Kootenai County than the property of this applicant by the said Assessor have varied from 50% to 70% of the actual cash value as this applicant is informed and believes and therefore alleges the facts to be.

V.

Petitioner alleges that it is entitled to have a reasonable return upon its said investment and that the sum of 10% per annum is not more than a fair and reasonable return upon its said investment. That if it is to be permitted to earn 10% per annum upon its said investment based upon such earning power, the value of the property hereinbefore mentioned does not exceed the sum hereinbefore set forth, and petitioner alleges the fact to be that its earning capacity at this time is as great as it will be in the future, and that if its valuation is to be determined by what it will earn, that the value thereof on the second Monday of January, 1911, was the sum of \$843,053.40.

VI.

Petitioner alleges that the method which has been adopted by the said assessor in assessing the said property is an incorrect and an improper method. That the said lands herein described, together with the dams, buildings and machinery, constitute together a power plant, and that the same and the whole thereof should be assessed as one item, namely, the [35] lands hereinbefore described, together with the dams, power plant, machinery, buildings and equipment situate thereon. Petitioner further shows that the lands described as follows:

Certain property situated near Post Falls, Kootenai County, Idaho, particularly described on page 11 of Book 1 of Deeds and on pages 412 and 413 of Book "U" of Deeds, containing 270 acres more or less;

That certain property described at pages 460 to 465 of Book 9 of Deeds in township 50 North of Range 5 W. B. M. in Section 13 thereof;

That certain land with a certain grist mill situated in section 3, township 50 North of Range 5 W. B. M. the property being described on page 97 of Book 34 of Deeds, constitute the lands along and about the said water fall, and together constitute one piece of property, all of which is adjoining and contiguous, and should be assessed as one piece of property and each is necessary to the other in the enjoyment of said water power.

Petitioner further says that if the said property is to be segregated, however, in substantially the manner that it has been by the said assessor, that the said assessments should not exceed the following amounts:

The land consisting of the three items mentioned above	\$ 97,986.40
All dams and fixtures therein, at Post Falls	331,626.00
All buildings connected with power plant and used in connection therewith and mentioned above	100,205.00
All machinery in power-house and connected with power plant.....	313,236.00

Petitioner alleges that it cannot segregate the value of the various dams, as the cost thereof has been and was by it kept as one item, and one dam is useless and valueless without the others. [36]

VII.

Petitioner further respectfully calls the attention

of this Honorable Board to the assessment levied against certain property of it described by the said assessor as a "railroad spur and bridge" assessed at \$48,750.00. Petitioner says that the said spur and bridge were constructed as a temporary spur at the time of the construction of its said power plant; that the same has not been since used by it; that the bridge is not worth in excess of the sum of \$2,000.00; that the same did not cost to exceed \$5,000.00 when new, and has practically no value at this time as it was put in for temporary use. Petitioner further says that the rails thereon are not the property of this petitioner, but were simply borrowed from the Northern Pacific Railway Company for use in the construction of the said power plant, and that the said rails did not on the second Monday of January, 1911, have a value in excess of the sum of \$2,500.00. That the said railroad spur has been abandoned and the Northern Pacific Railway Company requested to remove the said rails, and said property has no value whatever except the value of the rails and the small present value of the railroad bridge, which can be used for crossing the said Spokane River if an expenditure be made thereon and the said bridge be planked and put in condition for use. Petitioner further shows that it is advised by its counsel and therefore alleges the fact to be that the assessment upon the said railroad spur should be made by the said Board of Equalization.

VIII.

Petitioner further shows that the piece of property assessed as "Building on reservation, \$600.00,"

was a small frame structure put on the Coeur d'Alene Indian Reservation [37] which has long since been abandoned by petitioner and which is of no value, and petitioner has offered to sell the same for \$25.00.

IX.

That the said valuation and assessment on the property of this petitioner is excessive, and that it is out of proportion to the assessed valuation of other property of like character in the said County, and is in violation of law and is in excess of the full cash value thereof on the second Monday of January, 1911.

WHEREFORE, petitioner prays that the assessment and valuation upon its said property may be reduced and equalized as stated above.

THE WASHINGTON WATER POWER
CO.

By C. S. MacCALLA,
General Manager.

JOHN P. GRAY,
Coeur d'Alene, Idaho,

CHAS. L. HEITMAN,
Spirit Lake, Idaho,

Attorneys for Petitioner. [38]

State of Idaho,
County of Kootenai.

C. S. MacCalla, being first duly sworn, on his oath deposes and says.

That he is the General Manager and agent for petitioner, The Washington Water Power Company. That he has read the foregoing petition, knows the

contents thereof, and that the same is true of his own knowledge, except as to the matters and things therein alleged on information and belief, and as to those matters and things he believes it to be true.

C. S. MacCALLA.

Subscribed and sworn to before me this 17th day of July, A. D. 1911.

[Seal]

JOSEPH B. HOGAN,
Notary Public.

[Indorsed]: Filed July 17, 1911. D. E. Danby, Clerk of the Board of County Commissioners. By W. C. Quarles, Deputy.

[Endorsed]: Filed May 6, 1912. A. L. Richardson, Clerk. [39]

*In the District Court of the United States for the
District of Idaho, Northern Division.*

**THE WASHINGTON WATER POWER COM-
PANY, a Corporation,**

Plaintiff,

vs.

**KOOTENAI COUNTY, a Municipal Corporation,
and FRED E. WONNACOTT, as Assessor
and *Ex-officio* Tax Collector of Kootenai
County, Idaho,**

Defendant.

Demurrer.

The demurrer of the above-named defendants, Kootenai County, a municipal corporation, and Fred E. Wonnacott, as Assessor and *Ex-officio* Tax Col-

lector of Kootenai County, Idaho, to the bill of complaint of the above-named plaintiff.

These defendants by protestations not confessing or acknowledging all or any of the matters or things in the said bill of complaint contained to be true in such manner and form as the same are herein set forth and alleged, demur to the said bill of complaint and for causes of demurrer show:

I.

That the plaintiff has not in and by its said bill of complaint made or stated such a case as entitles it in a court of equity to the relief prayed by the bill, or to any discovery or relief from or against these defendants, or either of them, touching the matters contained in the said bill, or any of such matters.

II.

That it appears from the said bill of complaint of plaintiff that this court has no jurisdiction to hear and determine [40] this action for the following reasons:

(a) That it appears upon the face of the said bill of complaint that the plaintiff has an adequate remedy at law.

(b) That it appears upon the said bill of complaint that plaintiff had an adequate remedy at law of which it failed to avail itself in this,—that plaintiff failed and neglected to apply to the Board of County Commissioners of Kootenai County, for the reduction of the assessed valuation of its property in said County, or for the correction of the alleged erroneous assessments thereof at the time and in the manner provided by the laws of the State of Idaho.

(c) That the plaintiff had and still has a full, complete and adequate remedy at law under the laws of the State of Idaho, by paying the taxes assessed upon its property and then applying to the Board of County Commissioners of said County for a refund of such portions thereof, as it is entitled to by reason of any erroneous assessment of its property.

(d) That the levy and assessment of taxes is a legislative and not a judicial function, and this Court has no power to make or cause to be made, a new assessment of the property of the plaintiff.

(e) That it is not shown in said bill of complaint that the property therein described was assessed at more than its full cash value.

(f) That plaintiff has not alleged in said bill of complaint what plaintiff claims to be the full cash value of the property in question.

III.

That the said bill of complaint of plaintiff is wholly without equity.

(a) Because the plaintiff had a plain, speedy and adequate remedy at law by applying to the Board of Equalization of said County for a reduction of the assessed valuation of its property, [41] or for the correction of any alleged erroneous assessment thereof, and failed to avail itself of such remedy.

(b) That the plaintiff had and still has a plain, speedy and adequate remedy at law by paying the taxes assessed upon its property and then applying to the Board of County Commissioners of said County, for a refund thereof, of which remedy it failed to avail itself.

(c) Because the plaintiff failed to pay the taxes conceded by it to be due upon its property and failed to make an unconditional tender thereof, or such a tender thereof as would entitle it to maintain this action.

(d) That plaintiff failed to state in said bill of complaint the full cash value of the different items of property assessed by the assessor of Kootenai County.

IV.

That it appears upon the face of the said bill of complaint that there is a defect of parties defendant in this,—that the school districts and road districts, which plaintiff alleges are entitled to receive a portion of the taxes levied upon its property, are not made parties defendant herein.

V.

That it affirmatively appears from the said bill of complaint that plaintiff has a complete, speedy and adequate remedy at law or that if plaintiff has not now such remedy, that the said remedy at law has been lost by the unexcusable lack and negligence of the said plaintiff.

VI.

That it conclusively appears from the face of the said complaint that the plaintiff is barred from seeking relief by injunction or any equitable relief by reason of its unexcusable laches and negligence in not sooner bringing its action for the reduction of the taxes alleged by it to be *accessive*.

VII.

That said complaint or bill in equity is uncertain

on the [42] following particulars, to wit:

(a) That it nowhere appears in the said complaint or bill in equity what the full cash value of the land therein described was at the time said levy or assessment complained of was made.

(b) That it does not appear from said bill of complaint or bill of equity in what amount the assessment complained of was in excess of the full cash value of the property therein described.

(c) That it does not appear from said bill of complaint or bill in equity in what school districts or road districts the property of the said Washington Water Power Company, mentioned in said bill of complaint is situated or located.

(d) That it does not appear from said bill of complaint or bill in equity as to what the rate of taxation for State and county purposes was for the year 1911, so that the exact amount of taxes for State and county purposes for said year could be figured, if the exact valuation of said property could be arrived at by said Court.

(e) That it does not appear what the special levies for the road districts or school districts were in which the property of said Washington Water Power Company was situated or located, so that the exact amount of taxes could be ascertained, if the true valuation was arrived at on the property in each of said school districts or road districts in which the property of said Washington Water Power Company is situated or located.

VIII.

That said bill of complaint or bill in equity does

not state sufficient facts to entitle the said plaintiff to the relief prayed for in said bill of complaint or bill in equity, or any relief whatever. [43]

WHEREFORE, defendants pray the judgment of this Honorable Court whether they shall be compelled to make further or any answer to the said bill of complaint or to any other matters and things therein contained and they pray to be hence dismissed with their reasonable costs in this behalf sustained.

N. D. WERNETTE,
ROBT. H. ELDER,
Solicitors for Defendants.

Residence and P. O. Address, Coeur d'Alene, Idaho.

We hereby certify that the foregoing Demurrer is, in our opinion, well founded in point of law.

Dated at Coeur d'Alene, Idaho, this 25th day of May, A. D. 1912.

N. D. WERNETTE,
ROBT. H. ELDER,
Solicitors for Defendants.

Residence and P. O. Address Coeur d'Alene, Idaho.

[44]

State of Idaho,
County of Kootenai,
District of Idaho,
Northern Division,—ss.

Fred E. Wannacott, being being first duly sworn, upon oath deposes and says: I am the Assessor and *Ex-officio* Tax Collector of Kootenai County, State of Idaho, and one of the above-named defendants, and make this affidavit for and on behalf of said

Kootenai County and said defendants, and that the foregoing Demurrer is not interposed for delay.

FRED E. WONNACOTT.

Subscribed and sworn to before me this 27th day of May, 1912.

[Seal]

N. D. WERNETTE,

Notary Public.

[Endorsed]: Filed May 27, 1912. A. L. Richardson, Clerk. [45]

Order Overruling Demurrer.

At a stated term of the District Court of the United States for the District of Idaho, held at Boise, Idaho, on Thursday, the 6th day of June, 1912.

No. 535.

THE WASHINGTON WATER POWER COMPANY

vs.

KOOTENAI COUNTY, IDAHO.

In accordance with stipulation on file, it is ordered that the demurrer to the complaint in this cause be and the same is hereby overruled, and the said defendant is given until June 20th, 1912, in which to file and serve its answer. [46]

*In the District Court of the United States for the
District of Idaho, Northern Division.*

THE WASHINGTON WATER POWER COM-
PANY, a Corporation,

Plaintiff,

vs.

KOOTENAI COUNTY, a Municipal Corporation,
and FRED E. WONNACOTT, as Assessor
and Ex-officio Tax Collector of Kootenai
County, Idaho,

Defendants.

Answer.

The defendants, Kootenai County, a municipal corporation, and Fred E. Wonnacott, as Assessor and Ex-officio Tax Collector of Kootenai County, Idaho, now and at all times hereafter, saving and reserving unto themselves all preferences and advantages of exceptions which can or may be had or taken to the many errors, uncertainties and other imperfections in said complainant's bill of complaint, contained, for answer unto, or unto so much and such parts thereof as these defendants are advised is, are material or necessary for them to make answer unto, these defendants answering say:

I.

They and each of them admit each and every allegation contained in paragraphs No. 1, 2, 3, 4, and 5, of said bill of complaint.

II.

Answering paragraph VI of said bill of complaint, these defendants admit that the Assessor of Koo-

tenai County, preparatory to assessing the lands of the plaintiff in said [47] county for the year 1911, made a request of the plaintiff for a list of its said lands and property in said county; but these defendants and each of them deny that thereafter the plaintiff caused to be made or transmitted to said Assessor a list truly or correctly setting forth or describing all of the lands or property owned by the plaintiff, or situated in said County of Kootenai, State of Idaho; and on the contrary defendants allege that the said plaintiff furnished the assessor a list of property, but said list did not contain all of the property of said Washington Water Power Company in Kootenai County, but the said plaintiff, the Washington Water Power Company, failed, neglected and refused to list a pole line known as the Pend de Oreille Pole Line in Kootenai County, being about 23 miles long; also a building located at or near Cataldo, in Kootenai County, Idaho, of sheet-iron construction, in which is contained a large amount of valuable machinery, none of which was listed by said plaintiff on the list which it furnished to the said Assessor.

III.

Answering paragraph VII, of plaintiff's bill of complaint, these defendants, and each of them deny that the said Assessor or his deputies or assistants, or anyone acting or pretending to act for him or in his behalf, did not subsequently demand or request of or from the plaintiff any statement under oath, or at all, setting forth specifically, or at all, the real or personal property or any property owned or controlled by plaintiff, either on the second Monday of

January, 1911, at the hour of 12 o'clock noon, or at any time, or that no other or different request or demand for the statement of the property of plaintiff for the purposes of assessment of for any purposes was made upon the plaintiff by said assessor, his deputies or assistants, or any of them, than the said request hereinbefore referred to, or that the said assessor advised the plaintiff at the time [48] the said list was delivered to him, that that was all that he wanted or required or desired from the plaintiff.

IV.

For answer to paragraph VIII of plaintiff's bill of complaint, these defendants, and each of them, admit that the said assessor did not, nor did any of his deputies or assistants at any time in said year 1911, fill out or deliver to the plaintiff a statement of the property of the plaintiff or present or deliver any statement to the plaintiff; but deny that the assessor did not require plaintiff to fill out any such statement or return any such statement to said assessor properly filled out; and defendants allege that the Assessor of Kootenai County demanded of the said plaintiff that it make and furnish to the said assessor a list of its property in Kootenai County, as required by law; but that said plaintiff failed, neglected and refused to make and furnish said list to the said assessor.

V.

Answering paragraph IX of plaintiff's bill of complaint, these defendants, and each of them, admit that the said list delivered by the plaintiff to said assessor was duly received by said assessor, and was

accepted and filed by him, and that no entry by said assessor or by anyone was made or noted in said assessor's book of assessments of said Kootenai County opposite the name of the plaintiff, or at all, of any refusal by the plaintiff to give under oath, or at all, a statement of its property, real and personal in said County, or of any refusal by the plaintiff to comply with any of the requirements of the laws of the State of Idaho, but these defendants deny that in truth or in fact the plaintiff did not fail or neglect or refuse to comply with the requirements made by the assessor, and the requirements under the law of the State of Idaho; and in this regard defendants allege that the said plaintiff did fail, neglect and refuse to deliver to said [49] assessor for the year 1911, a true statement of its property in Kootenai County as required by said assessor and as required by the law of the State of Idaho.

VI.

Answering paragraph X of plaintiff's bill of complaint, said defendants, and each of them, admit that during the year 1911, the said assessor of Kootenai County, Idaho, made his assessment of plaintiff's property in said Kootenai County, for the purpose of levying taxes against the said property for the year 1911, for state, county and other purposes, and prepared and made a certain assessment-roll wherein he set forth the description of the property to be assessed by him, and the valuation at which said property of the plaintiff was assessed, and in said roll the said assessor set forth and described as the property of the plaintiff, those certain tracts and

parcels of land and other property of the plaintiff, as follows:

On page 11, Book 1 of Deeds, situate in Sec. 3 and 4, Twp. 50, Range 5.

On pages 412 and 413, Book "U" of Deeds, in Sec. 3, Twp. 50, Range 5.

On pages 460, 461, 462, 463, 464 and 465, Book 9 of Deeds in Sec. 3, Twp. 50, Range 5.

On page 97, Book 34 of Deeds, Grist-mill in Sec. 3, Twp. 50, Range 5.

Bear trap dam and small dam at Post Falls in Section 3, Twp. 50, Range 5.

Buildings and excavating in Sec. 4, Twp. 50, Range 5.

Machinery on Island #2, Sec. 4, Twp. 50, Range 5.

Concrete foundation and dam, Sec. 4, Twp. 50, Range 5. Railway spur and bridge.

being the same property which was and is in fact the property particularly described in paragraph V of plaintiff's bill of complaint. And the said assessor did in addition thereto, assess as against the plaintiff, a railroad spur and bridge situated upon said property, and said assessor did extend the same upon the said assessment-rolls and did set forth as his assessment and valuation thereof, the sum so assessed against plaintiff's property, and did list and assess the same as follows: [50]

On page 11, Book 1 of Deeds, situate in sec. 3 and 4, Twp. 50, Range 5, and on pages 412 and

60 *The Washington Water Power Company vs.*

413 Book "U" of Deeds, in Sec. 4, Twp. 50, R. 5.....	1,080,000
On pages 460, 461, 462, 463, 464, and 465, Book 9 of Deeds in Sec. 3, Twp. 50, Range 5.....	75,000
On page 97 Book 34 of Deeds, Grist-mill in Sec. 3, Twp. 50, Range 5.....	40,000
Bear trap dam and small dam at Post Falls	562,500
Building and excavation, Sec. 4, Twp. 50, R. 5,.....	223,000
Machinery on Island #2, Sec. 4, Twp. 50, Range 5,.....	350,000
Concrete foundation and dam, Sec. 4, Twp. 50, R. 5,.....	150,000
Railway spur and bridge	48,750

And in addition thereto said assessor did assess the other lands and property of the plaintiff in said Kootenai County, Idaho. Defendants deny that said assessment was a pretended assessment or that said assessor did pretend to assess such property, or that said assessment-roll was a pretended assessment-roll, but allege that said property was assessed in the manner provided by law.

VII.

Answering paragraph XI of plaintiff's bill of complaint, these defendants, and each of them, admit that on the said second Monday of January, 1911, at 12 o'clock, noon, the plaintiff was the owner of all of said property, and allege that said plaintiff was the owner of said railroad spur and

bridge at said time, and that in the list which said plaintiff furnished to the assessor of Kootenai County of its property subject to taxation for the year 1911, said railroad spur and bridge was listed and designated as the property of said Washington Water Power Company.

. VIII.

Answering paragraph XII of plaintiff's bill of complaint these defendants deny that the plaintiff at or prior to the assessment of its said property by the said assessor did state to the said assessor that for the purpose of determining the cash value thereof, for purposes of taxation, said assessor was welcome to use or examine the books or records or papers or cost sheets of the plaintiff for the purpose of determining the actual cost or actual cash value thereof. [51]

Deny that the said assessor did state to the plaintiff that he did not desire plaintiff to fix in its said return the value of its said property or neglected or refused to investigate the cost sheets, books, or records of the plaintiff, for the purpose of determining the actual cost of said property or for the purpose of determining its full cash value, or neglected or refused or failed to make any real investigation or any investigation, whatever, of the value of the property of the plaintiff, above described, for the purpose of determining its full cash value, or that the said assessor in disregard of the rights of plaintiff or in violation of its rights or without notice to the plaintiff, arbitrarily pretended to assess the property of the plaintiff as hereinbefore alleged.

IX.

Answering paragraph XIII of plaintiff's bill of complaint said defendants, and each of them, deny that the said assessment so made by the said assessor was made without ascertainment of the facts regarding the value of said property, or without any investigation or inspection thereof, or a request to be permitted to inspect the same, or notice to the plaintiff that he desired to inspect the same, or any further inquiry as to the value of the same, or without any investigation of the books, or records or papers of this plaintiff, or that the said books, records or papers of said plaintiff would have shown the cost of said property of the full cash value thereof. And deny that said assessor was requested by said plaintiff or any one for it, to go and examine said property, and deny that said assessor declined or refused to make an investigation or inspection of said plaintiff's property in Kootenai County, Idaho.

X.

Answering paragraph XIV of plaintiff's bill of complaint said defendants, and each of them, deny that during the year 1911, the said defendant assessor, assessed practically all of the other [52] property or any property within the County of Kootenai, State of Idaho, save or except that owned by said plaintiff at a value of not to exceed from thirty to sixty per cent of the actual cash value of said property, and deny that all of the other property in Kootenai County, Idaho, or any property in said Kootenai County, save or except the property of said plaintiff was during the year 1911, assessed at

not to exceed from 30 to 60 per cent of its actual cash value. On the contrary, said defendants, and each of them, allege that all of the property in Kootenai County, State of Idaho, was assessed by said assessor for the year 1911, at the full cash value thereof.

XI.

Answering paragraph XV of plaintiff's bill of complaint, said defendants, and each of them, deny that the said assessor, in order to reach the actual and full cash value of the property of said plaintiff, did fraudulently or wrongfully or arbitrarily, or without investigation or attempt to secure information, assess the property of the said plaintiff hereinbefore described or any property of said plaintiff at more than twice its actual cash value or at more than its actual cash value, in any amount. Defendants admit that the said assessor extended the said amount at which said property was assessed, upon the said assessment-rolls of Kootenai County, as the full cash value of said property.

XII.

Answering paragraph XVI of plaintiff's bill of complaint said defendants, and each of them, deny that the said assessor wrongfully or unlawfully or for the purpose of compelling the said plaintiff to pay an unjust or unreasonable proportion of the taxes of the said Kootenai County, State of Idaho, wilfully or knowingly assessed the property of said plaintiff at more than twice its actual and full cash value, or for more than its full cash value in any amount; and deny that the said assessor wrongfully [53] or unlawfully intended or was intending at all

such times, or at any time to assess the property of said plaintiff at more than twice its actual cash value, or for more than its full cash value in any amount, or thereby compel said plaintiff to pay many times the amount of its just proportion of the taxes of said Kootenai County, Idaho.

Said defendants, and each of them, admit that after said taxes had been extended by the said assessor upon the tax rolls of Kootenai County, Idaho, the county auditor of the said County of Kootenai, delivered said assessment-rolls to the said tax collector of said county for the collection of said taxes.

XIII.

Answering paragraph XVII of plaintiff's bill of complaint, defendants, and each of them, deny that the said assessor discriminated against said plaintiff and in favor of all other owners of property or any owners of property in said County of Kootenai, or particularly against said plaintiff and in favor of other owners of property or any owners of property of similar character or class or of property used for manufacturing purposes or in favor of the other owners of machinery or any owners of machinery in Kootenai County, Idaho, or against this plaintiff; and deny that as a result of said assessment, said plaintiff is required to bear more than its just burden of taxes within said County of Kootenai or that the taxes assessed and levied against the other property within the said County of Kootenai of similar character or other property of any kind, are not uniform as required by the laws and constitution of the State of Idaho, or that the property of said plaintiff

was taxed at a greater rate proportionately than the property of the same class or any property in said county and State of other persons or any persons or corporations; and deny that in all instances or any instance property used for manufacturing purposes or property held or owned [54] by individuals or corporations, organized under the laws of the State of Idaho, or particularly by residents or citizens of Kootenai County of the same character or class, as the property of said plaintiff, were not assessed for more than 60 per cent of their full cash value, or that any property in said Kootenai County, Idaho, was not assessed for more than 60 per cent of its full cash value. Said defendants admit that none of the property in Kootenai County, State of Idaho, was assessed by said assessor for the year 1911, in excess of its full cash value. And deny that the property of said plaintiff as described in said plaintiff's bill of complaint was assessed at more than its actual cash value, or more than twice its actual cash value, or in any amount more than its full cash value thereof; and deny that the said assessment constituted an unlawful or wrongful discrimination against said plaintiff or in favor of other taxpayers in said Kootenai County.

XIV.

Answering paragraph XVIII of plaintiff's bill of complaint, said defendants, and each of them, deny that by reason of the assessment made by the assessor of Kootenai County, for the year 1911, on the property of the Washington Water Power Company, a fraud was committed against said company or the

property of the plaintiff overvalued as compared with other property in the County of Kootenai, of the same kind or character or as compared with all other property in the county of Kootenai, or that plaintiff has been discriminated against in said assessment, or that it is required thereby to pay more than its just proportion of the taxes of said county, or that a gross injustice or any injustice has been done plaintiff, or a gross discrimination or any discrimination in the assessment or taxation of the property of the plaintiff existed or does exist in Kootenai County. [55]

XV.

Answering paragraph XIX of plaintiff's bill of complaint, defendants, and each of them, deny that the assessor did wrongfully, arbitrarily or unjustly assess or pretend to assess or value the plaintiff's property through prejudice or bias, against the plaintiff or for the reason that it is a foreign corporation, or for the further reason that the plaintiff is now, or was during the year 1911, in litigation with various persons in the County of Kootenai, State of Idaho, many of whom had or claimed to have political power or influence. Defendants admit that the plaintiff was seeking to acquire and condemn and appropriate a considerable quantity of land in the said County of Kootenai, overflowed by its said dam, for power development; but defendants deny that bias or prejudice exists or existed during the year 1911, in said Kootenai County against the plaintiff, because of the pendency of said actions, wherein said plaintiff sought to acquire and condemn the said

lands and deny that the said assessor wrongfully or fraudulently or unlawfully assessed the property of the plaintiff for the year 1911.

XVI.

Answering paragraph XX of plaintiff's bill of complaint, defendants, and each of them, admit that at the regular meeting of the Board of Equalization of Kootenai County, Idaho, held in the month of July, 1911, the plaintiff appeared and made application to the County Board of Equalization for a reduction of the values placed upon its property hereinbefore referred to, including the railroad spur and bridge. That the plaintiff filed before the said Board of Equalization of the County of Kootenai, State of Idaho, a petition in writing, verified by the General Manager and Agent of the plaintiff. That a copy of said petition is attached to plaintiff's bill of complaint. [56]

That witnesses were called on behalf of the plaintiff and under oath testified before said Board and were examined by the said Board and its attorney, and at said meeting the said assessor was present and made his statement to said Board, under oath. Defendants deny that the plaintiff made a showing of facts or showed to the said Board that said valuation placed upon its said property by the said assessor were wrong or excessive or more than twice the actual cash value, and full cash value, or more than the actual or full cash value in any amount. Defendants admit that the said plaintiff appealed to the said Board of Equalization for a relief, and that said matter was taken under advisement, by said

Board and thereafter, on the 28th day of July, 1911, the said Board passed upon the application of the plaintiff, and ordered that the assessment on a certain building located on the Indian reservation be reduced from \$600 to \$25, and the assessment on a branch power line in Kootenai County be reduced from 25 to 23 miles. Defendants deny as to all the balance of plaintiff's application or petition the said Board of Equalization arbitrarily or in conflict with the facts before it, or unjustly or wrongfully or illegally declined or refused or neglected to give to plaintiff any relief whatever; admit that said Board ordered the said assessment made by the assessor to stand as the assessment upon the plaintiff's property.

Defendants deny that the said action of said Board of Equalization in sustaining the said valuation in the assessment of plaintiff's property constituted an unlawful or illegal or fraudulent discrimination against the plaintiff or in favor of all or any other owners of property in the County of Kootenai, State of Idaho, or constitute a discrimination as against the property of the plaintiff, or the assessed valuation thereof as compared to other property of like class or character, or [57] any other property in the County of Kootenai, State of Idaho, and deny that said assessment was an overvaluation of said property in any amount whatever.

XVII.

That for answer to paragraph XXI of plaintiff's bill of complaint, said defendants, and each of them, deny that at the said hearing said plaintiff requested

the said Board either by themselves or by some competent person selected by them for that purpose, at the expense of the plaintiff, to make a physical investigation or examination of the property of the said plaintiff for the purpose of determining its full or actual cash value, and deny that said plaintiff offered to submit to the said Board, or any person selected by it, its books, papers or records showing the actual cost or full cash value of all of said property or any part thereof; and deny that in addition thereto that said plaintiff offered to turn over to the said Board or its representatives for investigation or examination, all or any of its books or records for the purpose of showing the production of the said plant, its earnings or expenses in connection with the maintenance and operation thereof, for the purpose of ascertaining the full or actual cash value thereof, or for the purpose of assisting the said Board in arriving at a fair or just assessment of the said property, or a fair or just determination of its full cash value, and said defendants and each of them state that during the progress of said hearing before said Board of Equalization, one of the attorneys for said plaintiff, made a statement to said Board that the members of said Board would be privileged to investigate the records and books of said plaintiff company, provided they would go to Spokane, Washington to do so, all of said books and records being located at Spokane, Washington, and out of the jurisdiction of the said Board of Equalization; and said defendants and each of them deny that said plaintiff offered to submit to the said [58] Board

or any person selected by it, its books, papers or records showing the actual cost or the full cash value of all of said property to said Board of Equalization, at the place where said Board of Equalization was in session, or to the said Board within said County of Kootenai, State of Idaho.

And said defendants and each of them deny that the said Board declined, refused or neglected to accept the said offer to make an investigation or investigations of the property of said plaintiff company, and deny that said Board arbitrarily or without investigation or attempt to secure information or in direct conflict with the facts as shown by the testimony produced before the said Board, affirmed or confirmed the action of said defendant, Fred E. Wonnacott, and said defendants, and each of them, deny that the assessment of said defendant, Fred E. Wonnacott, of the property of said plaintiff company for the year 1911, was wrongful or fraudulent or illegal, or made in an arbitrary manner at a sum far in excess of its full and actual cash value, or in any sum in excess of its full or actual cash value; and said defendants, and each of them, deny that at said hearing before said Board there was no testimony or evidence supporting or justifying or showing or pretending to show the value of said property of the plaintiff to be as assessed, by the said assessor, and deny that the said assessor simply submitted without investigation or inspection or knowledge of the full or actual cash value of said property, a statement, and said defendants, and each of them, deny that the statement or testimony of said Fred E. Wonnacott,

assessor, shows the bias or prejudice or any bias or prejudice of the said assessor against said plaintiff, and said defendants and each of them deny that the said Board wilfully or wrongfully or arbitrarily or fraudulently, without further or other investigation, or without justification in the facts before it, denied relief to the said plaintiff or ordered the said assessment made by [59] said Fred E. Wannacott, one of the said defendants, to stand. But said defendants and each of them allege and state the facts to be that the said Board of Equalization did grant some relief to the said plaintiff as prayed for in the petition filed and ordered the balance of said assessment made by said defendant, Fred E. Wannacott to stand, but that said order was not made wrongfully or arbitrarily or fraudulently or without investigation or justification in the facts before it.

XVIII.

Answering paragraph XXII of said plaintiff's bill of complaint, said defendants, and each of them, deny that the said Board of Equalization was biased or prejudiced against said plaintiff. Said defendants, and each of them, admit that one member of the said Board of Equalization, to wit, John L. Ferguson, was in litigation with said plaintiff at the time he sat upon said Board, and during the entire year of 1911; but deny that the said Ferguson entertained bitter personal bias or prejudice or any personal bias or prejudice against said plaintiff. Said defendants admit that at the time said Ferguson sat and acted as a member of said Board, and during the year 1911, there was pending in the Circuit Court of the United

States, for the District of Idaho, Northern Division, an action brought on behalf of said plaintiff to acquire certain lowlands owned by said Ferguson, and admit that the said Ferguson appeared in litigation as a witness against said plaintiff, and admit that there was pending in the said Circuit Court of the United States for the District of Idaho, Northern Division, a suit by the said Ferguson against the said plaintiff for the damages in the sum of \$8,000, but said defendants, and each of them, deny that the said Ferguson demanded or asked of said plaintiff large or exorbitant sums in settlement of said litigation, or for the said lands which the plaintiff required in the performance of its public duty. Said [60] defendants and each of them, admit that the said Ferguson demanded of said plaintiff the sum of \$7,500 in settlement thereof, and that he, the said Ferguson, in his complaint asked for the sum of \$8,000, but said defendants and each of them deny that said sums were exorbitant or unreasonable, or that any sums which said Ferguson asked of said plaintiff were exorbitant or unreasonable, and said defendants, and each of them, admit that when the said cause was tried out, and determined before referees appointed by the Circuit Court of the United States for the District of Idaho, Northern Division, the said Ferguson was allowed the sum of \$1,779.25, with interest thereon as the full value of said lands so sought to be acquired by plaintiff, and the damage to the remaining part thereof, by reason of its severance, which said report of referees was filed December 11, 1911. Said defendants, and each of them, deny that said Fergu-

son, because he did not receive the amount which he asked of said plaintiff, or was not awarded the amount which he asked of said plaintiff, entertained hostile or bitter feelings against said plaintiff, or that said Ferguson entertained hostile or bitter feelings against said plaintiff, or that said Ferguson entertained hostile or bitter feelings against said plaintiff at any time or at all; and said defendants, and each of them, deny that the said Ferguson prior to running for the office of County Commissioner did in a large measure, or at all, bias his campaign upon the fact that he was opposed to said plaintiff, or hated said plaintiff.

XIX.

Answering paragraph XXIII of plaintiff's bill of complaint, said defendants, and each of them, deny that the application of said plaintiff as made to the said Board of Equalization, was of no avail or fruitless, and deny that the said Board declined or neglected or refused to render to said plaintiff the relief to which it was entitled; but said defendants and each of them allege and say that the said Board did grant to said plaintiff [61] such relief which said plaintiff was entitled to and no more, and said defendants, and each of them, deny that said plaintiff has exhausted the remedies provided by the Statute of the State of Idaho, to secure a just valuation or assessment upon its property, and in this regard said defendants, and each of them, further state and allege that if the said plaintiff has no remedy as provided by the Statute of the State of Idaho, at the present time, it has lost

such remedy by reason of its own negligence and laches, by not availing itself of the remedy provided by the Statute of the State of Idaho, at the time provided by the Statute of the State of Idaho.

XX.

Answering paragraph XXIV of plaintiff's bill of complaint, said defendants, and each of them, admit that thereafter, by an order of the State Board of Equalization, all real property in the County of Kootenai, State of Idaho, was reduced 15 per cent, including the property of said plaintiff, and that said reduction was made only on real property, but said defendants and each of them deny that an unjust or unreasonable or illegal or fraudulent discrimination existed or ever existed, as against said plaintiff by reason of said assessment made by said defendant Fred E. Wonnacott for the year 1911, or by reason of the action of the Board of Equalization of said Kootenai County, Idaho, of said assessment for the year 1911; and deny that there was any discrimination whatever, or at all, as against the property of said plaintiff or in favor of all other real property, or any other real property in the County of Kootenai, State of Idaho, which could be affected by the said order of the said Board of Equalization.

XXI.

That for answer to paragraph XXV of plaintiff's bill of complaint, said defendants, and each of them, deny that the methods which was adopted by the said Assessor in assessing said property [62] was an incorrect and improper method, in this, that the said lands herein described, together with the dam, build-

ings and machinery constitute together a power plant, or that the same and the whole thereof should be assessed as one item, namely, the said land, together with the dams, power plant, machinery, buildings and equipment, situated thereon.

Said defendants and each of them deny that the lands described as follows, to wit:

On page 11, Book 1, of deeds, situate in Sec. 3 and 4, Township 50, Range 5.

On pages 412 and 413, Book "U" of deeds, in Sec. 3, township 50, Range 5.

On 460 to 465, inclusive, Book 9 of deeds, in Sec. 3, Township 50, Range 5.

On page 97, Book 34 of Deeds Grist-mill in Sec. 3, Township 50, Range 5.

constitute one piece of property. Said defendants admit that said property above described is adjoining and contiguous, but denies that the same should be assessed as one piece of property, and deny that each piece of said property is necessary to the other in the improvement of said water power.

XXII.

Answering paragraph XXVI of plaintiff's bill of complaint, said defendants, and each of them, deny that said assessor adopted with reference to the assessment of the property of said plaintiff a different system from that of other manufacturing plants and property in the said county, in segregating said plaintiff's property which said property is contiguous and is a part of one manufacturing plant, and denies that with reference to all other manufacturing plants or property in said Kootenai County, except the prop-

erty of said plaintiff, the said assessor has not segregated the machinery or buildings, but has assessed the same, together as one piece of property, and said defendants and each of them deny that assessing said property together as one piece of [63] property is the only method by which the same can be fairly or reasonably assessed. Said defendants, and each of them, allege and state that the method used by said defendant, Fred E. Wonnacott, in assessing said property of said plaintiff for the year 1911 was a correct method of assessing said property and was a method by which the same could be and was fairly and reasonably assessed.

Said defendants, and each of them, deny that if the said property is to be segregated out in substantially the same manner as the same has been assessed by said defendant, Fred E. Wonnacott, that the said assessments should not exceed the following amounts:

Certain property situated near Post Falls, Kootenai County, Idaho, particularly described on page 11 of Book 1 of Deeds, and on pages 412 and 413 of Book U of Deeds, containing 270 acres more or less.

That certain property described at pages 460 to 465 inclusive of Book 9 of Deeds in Township 50, North of Range 5 W., B. M., in Section 13 thereof.

That certain land with a certain grist-mill situated in Section 3, township 50, North of Range 5 W., B. M., the prop-

erty being described on page 97, Book 34 of Deeds.....	\$97,986.40
All dams and fixtures therein at Post Falls.....	331,626.00
All buildings connected with power plant and used in connection therewith and mentioned above....	100,205.00
All machinery in power-house and con- nected with power plant....	313,236.00

But said defendants, and each of them, allege and state that said property as segregated and assessed by the said assessor for the year 1911 should be in the amounts as the same were assessed by said defendant Fred E. Wannacott, for the year 1911.

XXIII.

Answering paragraph XXVII of plaintiff's complaint, said defendants, and each of them, deny that it is impossible for said plaintiff, or that it was impossible for the said Assessor to segregate the value of the various dams of said plaintiff. Said defendants and each of them further deny upon information and belief that in the construction of said dams and plant, the [64] cost of said dams was kept by the said plaintiff as one item, and deny that one dam of said plaintiff's said property is valueless or useless without the other dams; and said defendants, and each of them, deny that the full cash value of the following described property, to wit:

That certain property situate near Post Falls, Kootenai County, Idaho, particularly described on page 11 of Book 1 of Deeds and on pages 412 and 413, Book "U" of Deeds.

That certain property described on pages 460 to 465, Book 9 of Deeds, situated in Section 13, Township 50 N., R. 5 W., B. M.

That certain parcel of land with a grist-mill, situated in Section 3, Township 50 North, Range 5 W., B. M., the property being described on page 97, Book 34, of Deeds.

Bear trap dam and small dam at Post Falls, in Section 3, Township 50 N., R. 5 W., B. M.

Building and excavating in Section 4, Township 50 N., R. 5.

Machinery on Island No. 2 in Section 4, Township 50 N., R. 5 W., B. M.

Concrete foundation and dam in Section 4, Township 50 N., R. 5 W., B. M.

was not in excess of the sum of \$843,053.40 on the second Monday in January, 1911, or at any other time during the year 1911, and deny that if the value of the said property on the second Monday of January, 1911, or at any other time during the year 1911, had been based on its actual cost to the plaintiff, that the value thereof did not or would not exceed the sum of \$854,339.42; and deny that based upon its earning capacity the said property could not in any event be held to be any greater value than the sum of \$843,053.40; but said defendants, and each of them, allege and state that the actual and full cash value of said above described property belonging to said plaintiff, on the second Monday in January, 1911, was the sum of \$2,480,500.00.

XXIV.

Answering paragraph XXVIII of said plaintiff's

bill of complaint, defendants, and each of them, deny that an earning of ten per cent per annum upon its said investment on the above-described property is a reasonable return and no more, but said defendants, and each of them, allege and say that an earning of six per cent per annum upon the investment made by said plaintiff [65] in its said property is a reasonable return and no more, and said defendants, and each of them, deny that any assessment in excess of the sum of \$843,053.40 would be an unreasonable or unjust or excessive assessment; but said defendants, and each of them, allege and say that the full cash value of plaintiff's property as assessed is the sum of \$2,529,250.00; and deny on information and belief that an assessment in excess of the sum of \$843,053.40 would reduce the earnings from the said plant or the said property hereinbefore described below 10 per cent upon said property, and said defendants, and each of them, deny that if the full cash value of said property should be determined, based on the earning capacity, that the full cash value thereof on the second Monday in January, 1911, would not exceed the sum of \$843,053.40; and deny that if the actual cost thereof to the plaintiff is to be determined, the value of said property would not exceed the sum above given, to wit, \$854,339.42.

XXV.

Answering paragraph XXIX of plaintiff's bill of complaint, said defendants, and each of them, deny that the said business in which the plaintiff is engaged, of generating, distributing and selling electric power and energy, should return 10 per cent upon the

investment, or should return any amount in excess of 6 per cent upon the investment; and deny that the said business engaged in by said plaintiff is a hazardous investment, subject to many changes, as knowledge concerning electricity, or its generation or transmission is developing, or that such an investment is not a safe one, unless the investor is permitted to earn 10 per cent thereon, or that the demand for electricity fluctuates. Defendants and each of them admit that the plaintiff sells electricity to the mines in Shoshone County, Idaho; but denies that the demand for electricity from that source is not constant or that the same fluctuates or that the return upon the investment is [66] hazardous or depends upon the market for the products of said mines or the stability or permanency of said mines, or that a large part of plaintiff's investment depends or is dependent upon the production or stability of life of the mines of said Coeur d'Alene Mining District, or that by reason of all of said facts the said return of 10% is not excessive, or is a just or reasonable return or that said business is a hazardous business or the investment is a hazardous investment. And defendants, and each of them, allege that any return in excess of 6% on the investment is a reasonable and just return on the investment of plaintiff.

XXVI.

Answering paragraph XXX of plaintiff's bill of complaint, defendants, and each of them, admit that the railroad spur and bridge, assessed at \$48,740, was a spur and bridge across one of the channels of the Spokane River, but deny that it was a temporary

spur at the time of the construction of said power plant, or that the same has not since been used by the plaintiff, or that the bridge is not worth in excess of the sum of \$2,000, or that the same did not cost to exceed the sum of \$5,000, when used or has no practical use at this time or that it was put in for a temporary use, or that the rails used thereon were not the property of the plaintiff, or that the said rails did not on the second Monday of January, 1911, have a value in the excess of the sum of \$2,500, or that the said railroad spur had been abandoned prior to the second Monday in January, 1911, or that the Northern Pacific Railroad Company had been requested to remove the said rails, or that the property so assessed at the sum of \$48,740, had no value whatever, except the value of the rails or the small present value of the railroad bridge, or that said property was assessed at far in excess of its full cash value or [67] at any amount in excess of its full cash value; and defendants allege that in the statement furnished by the said Washington Water Power Company to the defendant Fred E. Wonnacott, as Assessor, and Tax Collector, of Kootenai County, the said plaintiff listed the said railroad spur and bridge as its property on the second Monday in January, 1911.

XXVII.

Answering paragraph XXXI of plaintiff's bill of complaint, defendants, and each of them, admit that in Kootenai County there are large areas of valuable farm lands valued at from \$200 to \$300 per acre and so valued and held by the owners thereof, having an actual cash value of from \$200 to \$300 per acre, and

a market value of from \$200 to \$300 per acre on the second Monday in January, 1911; but deny that the assessor wilfully or knowingly or designedly or in any manner *of* for any purpose, or at all, placed the same upon the assessment roll or listed the same at a valuation of from \$100 to \$125 per acre, or that thereby the said assessor intended to favor the owners of said irrigated lands or to discriminate against this plaintiff or establish in respect to the same, a different system of valuation than that which he used with reference to the property of the plaintiff, or that he assessed said farm lands at from 30 to 60 per cent of their actual cash value, or at any sum less than their full cash value, or in the case of the plaintiff's property, assessed the same at more than twice its actual cash value or at any amount more than its cash value. Deny that said assessor created a gross or unequal valuation of the property of the plaintiff, compared with the farming property situated in the said Kootenai County, or that he placed or intended to place or attempted to place an unequal burden upon the plaintiff; and defendants deny that any act of the assessor in assessing said property constituted a fraud upon the plaintiff or an attempt on the part of said assessor or said Board of Equalization to throw upon the [68] plaintiff a larger taxation than was just or equal.

XXVIII.

Answering paragraph XXXII of plaintiff's bill of complaint, defendants, and each of them, admit that the plaintiff is a public service corporation, but denies that the property of other public service cor-

porations in the County of Kootenai, State of Idaho, as assessed by the said assessor during the year 1911, did not exceed from 30 to 60 per cent of its actual cash value, and allege that all public service corporations were assessed at their full cash value; deny that all property of public service corporations in Kootenai County, Idaho, except the property of plaintiff, was during the year 1911, assessed at not to exceed 30 to 60 per cent of its actual cash value, or at any sum less than its full cash value; and deny that the property of the plaintiff was assessed at more than twice the full and actual cash value thereof, or that the same was assessed at any sum more than the full cash value thereof, or that plaintiff's property was assessed proportionately higher than other property of like kind or character, for the purpose or with the intention of discriminating against the plaintiff, and in favor of other public service corporations in Kootenai County, or at all, or for the purpose of compelling it to pay more than its share of taxes.

XXIX.

Answering paragraph XXXIII of plaintiff's bill of complaint, defendants deny that on the 26th day of December, 1911, or at any time during the year 1911, or at all, the plaintiff tendered to the tax collector of Kootenai County, Idaho, all taxes that were due or might be levied upon the property of plaintiff; admit that the said plaintiff tendered to the tax collector the sum of \$13,878.25, in payment of all of its taxes; but deny that the sum so tendered was all that could be legally levied upon said property. Ad-

mit that the assessor and *ex-officio* tax collector [69] refused to receive or receipt for said amount, and refused to accept the same, and credit the same upon the taxes assessed against the plaintiff for the County of Kootenai, State of Idaho, and that said assessor stated to the plaintiff that he would accept no sum whatever except the full amount of taxes assessed, levied and extended upon the tax-roll, but deny that said tax was unlawful or fraudulent or unjust.

XXX.

Answering paragraph XXXIV of plaintiff's bill of complaint, said defendants, and each of them, state that they have no information or belief as to whether or not the said plaintiff made the said tender upon the basis or the valuation for assessment purpose of \$854,339.42, and therefore said defendants deny the same. Said defendants deny that the said basis upon which said plaintiff tendered the said money was greater than the valuation for assessment of other property of like kind or character or value, within the County of Kootenai, State of Idaho, or was upon the full cash value thereof and deny that all other property in the County of Kootenai, State of Idaho was assessed at less than its full cash value, during the year 1911; but said defendants allege and say that all of the property in Kootenai County, State of Idaho, was assessed at its full cash value, and no more or less than its full cash value, for the year 1911; and defendants deny that said tender was made upon an eminently proper or just valuation or upon the full cash value of plaintiff's said property.

Defendants admit that at the time of the said tender to the said tax collector, plaintiff stated to said tax collector that it did not ask a receipt in full, but simply offered to pay the amount which it admitted was the levy upon its property at what the plaintiff claimed was its full cash value; and admit that the said tax collector stated to plaintiff that he would not receive or receipt for any sum as taxes on the said property of the said [70] plaintiff less than the total amount of taxes levied upon the same. Defendants deny that said plaintiff has tendered the amount legally due upon the said property to the said tax collector.

XXXI.

Answering paragraph XXXV of plaintiff's bill of complaint, said defendants, and each of them, deny that the taxes assessed and levied on the property of the Washington Water Power Company was a pretended tax or was wrongful in any manner, or at all, and allege the fact to be that the taxes on the following described property as set out in paragraph XXXV of plaintiff's complaint is a just and legal tax owing by the said Washington Water Power Company on the said property to said defendant, Kootenai County, to wit:

That property described on page
11, Book 1 of Deeds, in Sec. 3 and
4 Twp. 50 N. R., 5 W., and on
pages 412 and 413, Book "U"
of Deeds, in Sec. 4, Twp. 50 N.
R., 5 W.....\$14917.50

On property described in pages 460 to 465, inclusive, Book 9 of Deeds, in Sec. 3, Twp. 50 N. R., 5 W. B. M.....	1045.50
On property described on page 97, Book 34 of Deeds, Grist-mill, Sec. 3, Twp. 50 N. R., 5 W....	557.60
Bear trap dam and small dam at Post Falls, Sec. 3, Twp. 50 N., R. 5 W., B. M.....	7840.84
Building and excavating, Sec. 4, Twp. 50 N., R. 5 W.....	3013.85
Machinery on Island #2, sec. 4, Twp. 50 N., R. 5 W.....	5565.00
Concrete foundation and dam, Sec. 4, Twp. 50 N., R. 5 W....	2035.20
Railway spur and bridge.....	679.58

and that the total amount of said taxes so justly due and owing from said plaintiff to said defendant, Kootenai County, amounts to the sum of \$35,655.07, together with interest, and penalties, as provided by law; and said defendants deny that all or any of said taxes are levied or demanded without warrant of law, or in violation of the rights of the plaintiff.

XXXII.

Answering paragraph XXXVI of plaintiff's bill of complaint, defendants, and each of them, admit that the said assessor and *ex-officio* tax collector of Kootenai County, Idaho, after the said tender by the plaintiff, and the refusal to accept the same, marked the said taxes upon the property of this plaintiff hereinbefore [71] described, as delin-

quent, and thereafter, after the first Monday in January, 1912, claimed and demanded in addition to the amount of said taxes aforesaid a penalty upon each and every item of said tax 10% thereof; that the said defendant threatened that they will publish a notice in which they will offer for sale and will sell the said property belonging to the plaintiff for the amount of said taxes claimed to be due and delinquent thereon, and for the said penalties and for the costs of publication, and unless restrained and enjoined by the order of the Court, will so publish the notice and will offer the lands and property for sale, and will sell the same in the manner prescribed by law for the sale of lands for delinquent taxes, and that each and every part thereof will be separately offered for sale and be sold to the person who will take the least quantity of said property, and pay the said taxes, penalties and costs, claimed to be due, and the said tax collector will make and deliver to the purchaser of such property so sold, a certificate showing such sale, which certificate will entitle the said purchaser to a deed from the County, conveying said lands and said property so purchased, at the expiration of three years, if the same be not sooner redeemed.

XXXIII.

Answering paragraph XXXVII of plaintiff's bill of complaint, defendants admit that the taxes constitute and are and will be a lien upon the title to the said respective pieces of property against which the same are assessed and levied; that by the sale of said property by the tax collector the said County of Kootenai, and the said assessor and *ex-officio* tax col-

lector will transfer to different parties or corporations who purchase the said property at the sale, the land which it now claims upon the different parcels of property. Defendants deny that the plaintiff would be put to great or unnecessary costs; and deny [72] that said sale would constitute a cloud upon the title of plaintiff or work great or any wrong or injustice to the plaintiff. Admit that at the expiration of three years, if the property should not be redeemed from said sale, the purchaser thereof, at such sale, for delinquent taxes, would be entitled to receive a deed from the County of Kootenai conveying to the said purchaser the fee title to such property; but deny that such deeds would be invalid upon their face or would constitute or be a cloud upon the title to such respective pieces of property or would greatly impair or destroy their market value to the plaintiff.

XXXIV.

Answering paragraph XXXVIII of plaintiff's bill of complaint, defendants deny if said taxes levied should be paid by plaintiff, that plaintiff could not recover the portion thereof paid to the State of Idaho, if the same should be found to be unlawful, and deny that if plaintiff should pay the said tax, the plaintiff would in order to recover the same, if it should be held to be unlawful, be compelled to bring separate suits against Kootenai County or each of the said road districts of school districts or would thereby be compelled to bring a multiplicity of suits.

XXXV.

Defendants deny that the plaintiff has no plain or speedy or adequate remedy at law. These defendants, and each of them, assert and claim that under the Constitution and laws of the State of Idaho, the said plaintiff had a plain, speedy and adequate remedy at law, in that the said plaintiff could have applied to the Board of County Commissioners under Section 1791 of the Revised Codes of the State of Idaho.

XXXVI.

The defendants, and each of them, for further answer say that they deny each and every allegation contained in said bill of complaint except as herein expressly admitted, denied or [73] controverted.

For further answer to the bill of complaint, these defendants, and each of them, allege:

That the defendant, Fred E. Wannacott, as assessor and tax collector of Kootenai County, for the year 1911, demanded of the plaintiff, the Washington Water Power Company, a statement of its property, subject to taxation in Kootenai County, in accordance with law.

That the said plaintiff failed, neglected and refused to furnish to said assessor said statement, and neglected, failed and refused to furnish said assessor with any sworn statement listing its taxable property in Kootenai County, but that said plaintiff did furnish to said assessor a list of property as follows, to wit:

Kootenai County, Idaho.

Property situated at Post Falls, Idaho, and Owned by the Washington Water Power Co.

On page 11, Book 1 of Deeds, situated in Sections 3 and 4, Township 50 North, Range 5 West.

On pages 412-413, Book U of Deeds, Section 3, Township 50 North, Range 5 West.

Lots 1, 2, 3, 4, in Section 8, Township 50 North, Range 4 West.

Lots 1, 2, 3, 4, in Sections 9, Township 50 North, Range 4, West on pages 460, 461, 462, 463, 464, 465 of Book 9 of Deeds.

On page 97, Book 34 of Deeds, in Section 3, Township 50 North of Range 5 W., B. M. (Grist-mill.)

On page 191, Book 10 of Deeds (right of way containing 31 acres) 120 acres of right of way.

80 miles of poleline.

Building on Reservation.

Dams at Post Falls.

Buildings at Post Falls.

Machinery at Post Falls.

Railway spur and bridge.

That said list was not a true and correct list of the taxable property of said Washington Water Power Company; that they failed, neglected, to list a poleline known as the Pend d'Oreille pole line, about 23 miles long, also certain buildings built of [74] sheet iron, located near Cataldo, and the machinery contained in said building.

That as soon as practicable the said assessor of Kootenai County assessed the property according to

the description contained in the list furnished by the plaintiff to said Assessor, and that all of the said property of the said Washington Water Power Company was assessed at its full cash value, as follows, to wit:

On page 11, Book 1 of Deeds, situate in Sec. 3, and 4, Twp. 50, Range 5; and on pages 412 and 413, Book U of Deeds, in Sec. 4, Twp. 50 R. 5.....	\$1080000
On pages 460, 461, 462, 463, 464, and 465, Book 9 of Deeds, in Sec. 3, Twp. 50, Range 5.....	75000
On page 97, Book 34 of Deeds, Grist-mill, in Sec. 3, Twp. 50, Range 5.....	40000
Bear trap dam and small dam at Post Falls	562500
Building and excavation, Sec. 4, Twp. 50, R. 5.....	223000
Machinery on Island #2, Sec. 4, Twp. 50, Range 5.....	350000
Concrete foundation and dam, Sec. 4, Twp. 50, R. 5.....	150000
Railway spur and bridge.....	48750

That prior to the time said defendant Fred E. Wannacott made said assessment on said above-described property, he used due care and diligence in ascertaining the full cash value of said property.

That prior to the time of making the assessment for the year 1911, on the property of said plaintiff, the defendant, assessor, requested the plaintiff to al-

low him to make a physical examination of the property and machinery in the powerhouse of said company, located at Post Falls, Idaho, and that said company, its officers and agents in charge of said property, refused to allow the said assessor to inspect or examine said property, and refused the said assessor admission to its power-house, and did not allow them to inspect the machinery and electrical apparatus contained in said power-house.

And these defendants humbly submit to the Judge of this Honorable Court, and humbly insist that this suit is altogether unnecessary and vexatious, and that even if the complainant is [75] entitled to any relief by reason of the matters and things complained of by its said bill, the same might have been obtained by the proper procedure at law, as hereinbefore set up.

WHEREFORE, these defendants, and each of them, pray that the injunction prayed for by the plaintiff be denied; that the complainant's bill of complaint be dismissed, and the defendants herein, and each of them, may have decreed to them their costs in this behalf most wrongfully sustained.

DAVIS MEYERS,

Chairman of the Board of County Commissioners.

FRED E. WONNACOTT,

County Assessor and *Ex-officio* Tax Collector,

Defendants.

N. D. WERNETTE,

ROBERT H. ELDER,

Residence and P. O. Address: Coeur d'Alene, Idaho,

Solicitors for the Defendants

Due and legal service of the within Answer by receipt of a full, true and correct copy thereof, is hereby accepted at Coeur d'Alene, Idaho, this 22d day of June, A. D. 1912.

JOHN P. GRAY,
Attorney for Plaintiff.

[Endorsed]: Filed June 24, 1912. A. L. Richardson, Clerk. [76]

*In the District Court of the United States for the
District of Idaho, Northern Division.*

No. 535.

THE WASHINGTON WATER POWER COMPANY, a Corporation,

Plaintiff,

vs.

KOOTENAI COUNTY, a Municipal Corporation,
and FRED E. WONNACOTT, as Assessor
Ex-officio Tax Collector of Kootenai County,
Idaho,

Defendants.

Replication.

The replication of the *defendant* above named to the answer of the defendants above named.

This replicant, saving and reserving to itself all and all manner of advantage of exception, which may be had and taken to the manifold errors, uncertainties, and insufficiencies of the answer of the said defendants, for replication thereunto, saith, that it doth and will aver, maintain, and prove its said bill

to be true, certain, and sufficient in the law to be answered unto by the said defendants, and that the answer of the said defendants is very uncertain, evasive, and insufficient in law, to be replied unto by this replicant; without that, that any other matter or thing in the said answer contained, material or effectual in the law to be replied unto, confessed or avoided, traversed or denied, is true; all which matters and things this repliant is ready to aver, maintain, and prove as this Honorable Court shall direct, and humbly prays as in and by said bill it hath already prayed.

JOHN P. GRAY,
Attorney for Plaintiff,
Residence and Postoffice address of John P. Gray:
Coeur d'Alene, Idaho.

Service of the within Replication accepted and a true copy thereof [77] received at Coeur d'Alene, Idaho, this 27th day of June, 1912.

ROBERT H. ELDER,
N. D. WERNETTE,
Attorneys for Defendants.

[Endorsed]: Filed June 29, 1912. A. L. Richardson, Clerk. [78]

Defendants' Exhibit No. 3 [Testimony of C. S. McCalla].

C. S. McCALLA, recalled and cross-examined by KEARNS.

Q. Have you increased the amount of power generated at Spokane?

Objected to, etc.

(GRAY.) I will withdraw the objection.

(COURT.) Very well.

A. The company is preparing plans now for the development of the upper falls in Spokane. It will require about three years to make the development. The gain through the lake storage and this plant about 12,100 horse-power.

Q. What horse-power did you have before that?

A. With the total fall developed without the lake storage we will have 21,300 horse-power.

Q. That is with the gain?

A. No, this is without the lake storage, 21,300.

(COURT.) Is that the present capacity at Spokane?

A. No, sir, that is with the upper fall developed. With the storage we will get 33,400 horse-power, giving a gain of 12,100. The cost of development would be very nearly the same. There would be a slight difference, a little bit on the machinery. The actual machinery in the plant is relatively small part of the total cost of development.

(CERNS.) In other words, by holding the water of Lake Coeur d'Alene and the reservoir basin you increase the power of your Spokane plant from 21,300 to 33,400 horse-power?

A. That is it exactly. We contemplate to put in there four 7500 kilowatt generators, 30,000 kilowatt or a total of 40,000 electrical horse-power.

Q. Is it not a fact that the Washington Water Power Co. dam has another dam for the generation of power in Spokane, below the Spokane dam? [79]

A. This one in process of construction, yes.

Q. How long has that been in process of construction? A. Nearly two years.

Q. How near is it to completion?

A. We hope to have part of it—the first part of it running in the neighborhood of next October or November somewhere along there.

Q. That new dam can be added to as the demand for electric power continues to grow?

A. Unfortunately the entire dam has got to be put in the first time; in other words the entire investment has got to be made as far as dams and buildings go.

Q. You can add to your units in that dam the same as you add to them at Post Falls?

A. Yes, the buildings will hold the units. The Lake flowage there will give us a gain of about 5,400 horse-power.

Q. Without the lake storage how much power could you generate in that new dam?

A. Without lake storage we can generate in the neighborhood of 13,600.

Q. With the lake storage how much?

A. About 19,000. This same storage affects the city of Spokane; it has a pumping plant for water supply, also affects any power site on the river.

Q. Affects it, it is a benefit?

A. It benefits it, yes, benefits the city about 67 per cent.

Filed August 20, 1912. A. L. Richardson, Clerk.

Defendants' Exhibit No. 4 [Testimony of C. S. McCalla].

C. S. McCALLA, same recall.

Q. Where are you building this plant you say you have in process of construction?

A. That is at a place known as Little Falls about fifteen miles north of Reardon.

Q. How far from Spokane?

A. By the transmission line about 28½ miles.

Q. You say you have about how much capacity there?

A. We will have part of that plant in operation next fall or early winter if we have good luck.

Q. How much capacity?

A. We are putting in at this time—we expect to get the first unit of 5,000 kilowatts in operation.

Q. What was the low water capacity of the plant when completed?

A. The low water capacity with storage 19,000 horse-power.

(COURT.) I have *note* here that indicates you stated that the increase of power down there would be about 6,000 horse-power by reason of the reservoir. A. 5,400 with the complete installation.

Q. Get about 5,400 by the addition of the reservoir? A. Yes.

Filed August 20, 1912. A. L. Richardson, Clerk.

**Defendants' Exhibit No. 5 [Extracts from]
Testimony of C. S. McCalla.**

C. S. McCALLA—extracts from his testimony.

(GRAY.) What is the elevation of the water in the slack-water portion of the Coeur d'Alene River, the portion that is affected?

A. The same elevation as the water at the dam; slack water; no appreciable velocity.

Q. How do you know that is a fact?

A. You can tell by looking at it. There is absolutely no current there; logs will float with the breeze.

Q. A physical fact?

A. A physical fact, yes, could not be otherwise.

Q. What season of the year is it that the water is low naturally in Coeur d'Alene Lake and Spokane River?

A. Low-water season extends from July—the middle of July to—depending on the season—October up to February; the low-water season, it is lowest in September and October as a rule.

Q. How much power with the present dam you have constructed at Post Falls that you are now maintaining, do you develop, with the storage reservoir which you have—which you are using, by the maintenance of the present dam?

A. With six and a half feet of storage which the design of the bear-trap will permit storing in the lake, we can develop at Post Falls about 11,900 horse-power

Q. 11,900? A. 11,900.

Q. During high water?

A. We have installed about 15,000 horse-power.

Q. More than water enough to supply it during that period of time? A. Yes. [82]

Q. Without that storage, what horse-power—average horse-power, at low water, could you develop—at average low water, I mean during those low-water months?

A. Our low-water flow at Post Falls would permit us to develop about 5,650 horse-power.

Q. You say that would permit you to develop that? A. Without any storage, yes.

Q. That is a gain of how much?

A. A gain of about 90 per cent, the difference between 5650 and 11,900.

Q. That would be over one hundred per cent, would it not?

A. No, sir, 11,900 is about 90 per cent more than 5650, I think. (Figures.) Yes, I am in error; the low-water flow is—low water 6250 horse-power. With storage, six and a half feet, we get 11,900, a gain of 5650 horse-power, about 90 per cent.

Filed August 20, 1912. A. L. Richardson, Clerk.
[83]

Plaintiff's Exhibit No. 10 [Agreement, Dated January 14, 1905, Washington Water Power Company and Alice L. Martin].

THIS AGREEMENT, Made and entered into this 14th day of January, 1905, by and between The Washington Water Power Company, a corporation organized and incorporated under the laws of the State of Washington, party of the first part, and

Alice L. Martin, of Post Falls, Idaho, party of the second part, WITNESSETH: That,

WHEREAS the party of the first part has purchased of and from the party of the second part certain property in the vicinity of the town of Post Falls, in Kootenai County, State of Idaho, including riparian rights and water rights and the right to use water from the Spokane River for power purposes, and which has been, by deed dated December 17, 1904, transferred, conveyed and sold to and vested in the party of the first part by the party of the second part, and for which property and rights the first party has paid the second party a considerable sum of money in cash as part of the consideration for the said property so sold and conveyed:—

NOW, THEREFORE, In consideration of one dollar, in hand paid by the second party to the party of the first part, receipt of which is hereby acknowledged, it is hereby agreed as follows:

I.

That the party of the first part shall and will keep available from and by its electric plant in the vicinity of Post Falls, Idaho, for the use of the party of the second part, at that certain point in the vicinity of said town of Post Falls, which said point is more specifically described as follows, to wit: A point on the east and west center line of section three (3), in township fifty (50) north, range five (5) west, Boise meridian, in Kootenai County, State of Idaho, eight hundred (800) feet west of the center of said section three (3), electric energy (as measured by standard measuring instruments as hereinafter provided) to

the maximum amount of [84] ninety-five (95) horse-power (70 and $14/15$ Kilowatts) and also at the pumping station of the party of *the party* of the second part as now fixed on the north bank of the Spokane River near said town of Post Falls, in Kootenai County, State of Idaho, which said pumping station is situated at or about the point where the north bank of the channel of the Spokane River intersects Henry Street extended (which said Henry Street is one of the streets of said town of Post Falls), electric energy (as measured by standard measuring instruments as hereinafter provided) to the maximum amount of thirty (30) horse-power ($22 \frac{2}{5}$ kilowatts), continuously from and after the first day of April, 1905 (unless said service shall be interrupted as hereinafter provided). Said service shall be of twenty-four hours per day of each and every day of each and every year, (and this contract shall be without limit as to time or duration), subject to the limitations contained in the terms and provisions hereinafter set forth.

II.

The electric energy to be so kept available by the first party to and for the second party shall be what is known as continuous twenty-four hour power, and the party of the first part shall and will cause to be provided as nearly as is reasonably practicable a continuity of supply of electric energy to the party of the second part, and shall and will as far as reasonably practicable preserve such continuity of supply, except in cases not avoidable by reasonable diligence, rendering necessary or proper the shut-

ting down of the electric service so to be provided; and the party of the first part may, without subjecting itself to any claim for damages, after three days written notice to the second party, make or cause such interruption in the supply of said electric energy as may be reasonably necessary for the proper completion, repair or maintenance of the plant or lines of the first party from its electric plant in the vicinity of Post Falls, Idaho. It shall not be necessary to give [85] any such notice when the interruption of current or energy so to be furnished shall occur notwithstanding such reasonable diligence on the part of the party of the first part.

The party of the first part shall not be required to furnish, nor shall it be liable for any failure to furnish, uninterrupted current, nor shall it be required to keep, or be liable for any failure to keep, available said electrical energy if such interruption or failure shall be caused wholly or partially, directly or indirectly, by the act of God, the public enemy, any riot or riots, strike or strikes, boycott or boycotts, labor trouble or labor troubles; or any suit, action, injunction, or any order of judgment or any court; or by any act or law of the State of Idaho, or of the State of Washington, or of the United States, or any officer or agent acting for or on behalf of either of said states or of the United States; or if the property of the party of the first part which it now owns or shall hereafter acquire in or bordering upon the Spokane River, in Kootenai County, State of Idaho, shall be taken or injured for public use or under the power of eminent domain; or if,

without negligence on the part of the party of the first part, the water power which the party of the first part now has or may hereafter acquire in the vicinity of Post Falls, Idaho, shall be destroyed, injured or in such condition that the first party shall be unable to generate electric energy with said water power to the extent of ninety-three and one-third ($93\frac{1}{3}\%$) kilowatts.

In the event that the property purchased by the first party from the second party and described by said deed hereinbefore mentioned, dated December 17th, 1904, made and executed by the party of the second part and A. M. Martin, her husband, as grantors to the party of the first part herein as grantee therein, which said deed was filed for record in the office of the county recorder of Kootenai County, State of Idaho, on the 24th day of December, 1904, and is recorded on page 464-465 of Book 9 of records of deeds in said office, shall be damaged, taken or appropriated [86] under the power of eminent domain or for public use as and in the manner provided by law, the first party shall, if possible, procure a separate judgment, decree, assessment and segregated amount of the damage done to the said property and the water power and water rights so purchased by the said first party from the second party and described in said deed, so as to place the second party, as nearly as may be in a position to secure the same compensation, damages and remuneration as if the said property, including water rights, and power, were at the date of such taking or damage vested in the second party, and if

such segregated and separate amount cannot be so had and procured, and the parties hereto shall be unable to agree thereon, the same shall be fixed by three arbitrators, one of which shall be selected by the first party, and one of whom shall be selected by the second party, and the two arbitrators so selected shall select a third arbitrator. Said arbitrators shall be distinterested. The decision, in writing, of any two of said arbitrators shall be final and binding upon each of the parties. Their decision shall be in writing and shall be after there shall be an opportunity for each and all the arbitrators to meet together, and the decision or conclusion reached shall be announced at such meeting after the aforesaid opportunity, but need not then be reduced to writing. The amount so fixed shall be paid from the fund received for and on account of such taking and damage assessed and paid to the second party when such proceeding or action shall be and become final. It is agreed, however, that the property described in said deed is also described in deeds from the Idaho Lumber and Manufacturing Company to the party of the first part herein, and the matter of damages and compensation covered by this paragraph shall be divided between the party of the second part to this contract and the said Idaho Lumber and Manufacturing Company as their interests were at the time of making said deeds and conveyances.

III.

The party of the first part shall and will provide, at its own [87] cost and expense, at or near the points where the said electric energy is so agreed

to be kept available by the first party for the use of the second party as aforesaid, in places to be provided by the party of the second part, such standard measuring instruments as may be proper, necessary or desirable to measure the electric energy agreed to be kept available by the first party, and at which places and by standard measuring instruments said electric energy so to be furnished shall be measured.

IV.

The said electric energy so to be kept available as above specified shall be what is known as alternating three-phase of about sixty cycles per second, and having a pressure of approximately two thousand two hundred volts.

The party of the first part shall, however, have the right to change the form of electric energy to be kept available as aforesaid, provided that in making such change the amount of energy to be delivered and measured at the place and in the manner hereinbefore specified shall in no wise be diminished, and provided further that the cost of making such change or changes shall be borne by the party of the first part.

V.

Representatives of both parties hereto shall have access to all apparatus and transmission lines on the premises of the party of the second part at any and all times, and shall have the right to have any and all measuring instruments tested, retested and recalibrated at any time for the purpose of ascertain-

ing the condition or accuracy of such instrument or instruments.

VI.

The party of the first part shall also have the right to enter upon the premises of the party of the second part for the purpose of constructing, repairing, and maintaining the electrical transmission [88] lines used for the purpose of supplying the electric energy herein agreed to be kept available by the party of the first part for the party of the second part, and the second party grants and gives to the first party the right to construct, maintain and operate transmission line or lines upon and over any part of the premises and property of the second party to reach the places described in paragraph numbered one (1) hereof as the points where said energy shall be kept available, together with the right to erect and construct and maintain any and all poles, arms, cross arms, wires, and any other matter or thing that may be necessary or proper, including a telephone wire, if desired by the first party, which telephone wire shall be extended from the electric plant of the first party to the place of business or office of the second party in the vicinity of the place where said energy is to be kept available as described in paragraph numbered one (1) hereof. And in the event that it shall be or become necessary, in order to make or keep available the said electric energy at said points described in paragraph numbered one (1) hereof, that transmission line or lines and telephone line, or either of them, be erected, constructed or maintained upon

or across any premises or property other than the premises and property of the parties hereto, or the premises and property of one of them, the second party shall, at her own cost and expense, and without cost or expense to the first party, procure and obtain the necessary right of way upon and over such premises and property upon, over and along which to erect, construct, maintain and operate such transmission line or lines and telephone line.

VII.

This contract expresses and contains the entire contract on the subject matter hereof. This contract shall not be modified or varied except by written contract. If at any time the terms hereof are not strictly adhered to or enforced, they shall not thereby be deemed waived or modified but shall as to all subsequent times and [89] dates be deemed in full force and effect unless modified in writing.

VIII.

The provisions of this contract shall inure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators, representatives, successors and assigns, including vendees, purchasers, lessees, renters, mortgagees; and any and all other persons, whether claiming by act of party or by operation of law or otherwise.

IN WITNESS WHEREOF, The said party of the first part has caused its name to be subscribed to these presents by its president and secretary and its corporate seal to be hereunto affixed pursuant to resolution of its board of trustees, and the said

party of the second part has hereunto set her hand, in duplicate, the day and year first above written.

THE WASHINGTON WATER POWER
COMPANY.

By D. L. HUNTINGTON,
As 2nd Vice-President.

[Seal]

Attest: H. L. BLEECKER,
As Secretary.

ALICE L. MARTIN. [Seal] [90]

State of Washington,
County of Spokane,—ss.

On this 2nd day of February, A. D. 1905, before me personally appeared D. L. Huntington and H. L. Bleecker to me known to be the 2nd Vice President and Secretary, respectively of

THE WASHINGTON WATER POWER COM-
PANY

the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they and each of them, were authorized to execute said instrument, and that the seal affixed is the seal of said corporation, and was so affixed to said instrument by the authority in them vested by the Board of Trustees of said corporation, and that they signed the said instrument by like authority.

IN WITNESS WHEREOF, I have hereunto set

my hand and affixed my official seal the day and year first above written.

[Seal]

W. J. McKEAN,

Notary Public in and for the State of Washington,
Residing at Spokane, Washington. [91]

State of Washington,
County of Spokane,—ss.

I HEREBY CERTIFY THAT on this 14th day of January, 1905, before me, E. T. White, a notary public in and for the state of Washington, residing at Spokane, Washington, personally appeared Alice L. Martin, known to me to be the person whose name is subscribed to the within and foregoing instrument and who is described in and who executed said instrument, the wife of A. M. Martin, and described as a married woman; and upon an examination without the hearing of her husband, I made her acquainted with the contents of said instrument, and thereupon she acknowledged to me that she executed the said instrument, and that she signed and sealed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned, and that she does not wish to retract such execution.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 14th day of January, 1905.

[Seal]

E. T. WHITE,

Notary Public in and for the State of Washington,
Residing at Spokane, Washington.

Filed August 20, 1912. A. L. Richardson, Clerk.

**Plaintiff's Exhibit No. 11 [Agreement, Dated
December 17, 1904, Alice L. Martin et al. and
Washington Water Power Co.]**

THIS INDENTURE, Made this 17th day of December, A. D. 1904, between ALICE L. MARTIN and A. M. MARTIN, her husband, of Post Falls, Idaho, the parties of the first part, and THE WASHINGTON WATER POWER COMPANY, a corporation organized and incorporated under the laws of the State of Washington, party of the second part,

WITNESSETH: That the said parties of the first part, for and in consideration of the sum of Five (\$5.00) dollars, to them in hand paid by the said party of the second part, the receipt of which is hereby acknowledged, do by these presents grant, sell, convey, remise, release and forever quit claim unto the said party of the second part, and to its successors and assigns, all that certain tract, piece and parcel of land situated in the county of Kootenai, State of Idaho, which is shown by the blue print or map attached hereto, marked Exhibit "B" and made a part hereof, the said premises being the premises shown and represented on said blue print or map as enclosed by a red line, and which said premises are bounded and particularly described as follows, to-wit:

STARTING POINT.

Commencing at a starting point described as follows: Fifty (50) feet north of the meander corner stake on the north bank of the north channel of the Spokane River between sections three (3) and

four (4), in township fifty (50) north, range five (5) west, B. M., running thence east one thousand three hundred eighty-three (1383) feet to a point on the center line of Sixth street of the town of Post Falls, Idaho; thence south one thousand one hundred twenty-four and four-tenths (1124.4) feet to the true place of beginning, which is marked "A" on said blue print.

PROPERTY CONVEYED.

running thence west from said true place of beginning two hundred ninety-three (293) feet to the east bank of the north channel of the [93] Spokane River; thence south ten degrees (10 deg.) east one hundred (100) feet; thence south nineteen degrees (19 deg.) east two hundred ten (210) feet; thence south thirty-three degrees (33 deg.) east two hundred ten (210) feet; thence east two hundred eleven (211) feet to the west line of a canal or sluice; thence northerly along west bank of said canal of sluice to a point; thence west sixty-four (64) feet to the true place of beginning.

Also commencing at the said point on the east bank on the north channel of the Spokane River two hundred ninety-three (293) feet west of the point above-described as the true place of beginning; thence south ten degrees (10 deg.) east one hundred (100) feet; thence south nineteen degrees (19 deg.) east two hundred ten (210) feet; thence south thirty-three degrees (33 deg.) east two hundred ten (210) feet; thence east two hundred eleven (211) feet to the west bank of a canal or

sluice; thence southerly along the west bank of said canal or sluice to a point at low water mark on the east bank of the north channel of said Spokane River; thence westerly around the point of land, and thence northerly along the low water mark along the east bank of the north channel of said Spokane River to the said point on the east bank of the north channel of said river two hundred ninety-three (293) feet west of said point above-described as the true place of beginning.

The parties of the first part also grant, bargain, sell, assign, transfer, convey, set over and deliver to the second party the following described rights and property, to wit:

All the rights, property, water, water power and right to use water granted or conveyed by Frederick Post and Margaret Post, his wife, by deed dated November 25th, 1899, and filed for record and recorded in the recorder's office of Kootenai County, Idaho, at page 423 of Book S of Deeds, to Alice L. Martin, one of the grantors herein. It is intended that this shall be construed to be a deed, transfer and conveyance to and vesting in the grantee herein, all [94] rights acquired, granted, given, conveyed, transferred to or vested in the grantors herein, or either of them, by said deed to said Alice L. Martin,—save and except the rights reserved in and by plat of dedication to and of the townsite of Post Falls, Idaho, to lay and maintain water mains and to erect and maintain poles and wires for light and power in and on the streets and alleys of said town.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular the said premises and property, together with the appurtenances, unto the said party of the second part, and to its successors and assigns, forever.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hands and seals, the day and year first above written.

ALICE L. MARTIN. [Seal]

A. M. MARTIN. [Seal]

Signed, sealed and delivered in presence of:

H. M. STEPHENS. [95]

State of Washington,
County of Spokane,—ss.

On this 17th day of December, A. D. 1904, before me, H. M. Stephens a notary public in and for the State of Washington, personally appeared Alice L. Martin, and A. M. Martin, her husband, who are personally known to me to be the persons described in and who executed and whose names are subscribed to the within and foregoing instrument and acknowledged to me that they executed the same and signed and sealed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

And the said Alice L. Martin, wife of the said A. M. Martin, upon an examination without the hearing

of her said husband, was by me made acquainted with the contents of the within and foregoing instrument, and thereupon she acknowledged to me that she executed the same freely and voluntarily, without any fear or undue influence of her said husband, and that she does not wish to retract such execution.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

H. M. STEPHENS,

Notary Public in and for the State of Washington,
Residing at Spokane, Wash.

Filed for record Dec. 24, 1904, at 9:15 A. M.
Recorded in Book "9" of Deeds, at pages 464 and 465.

Filed August 20, 1912. A. L. Richardson, Clerk.
[96]

Plaintiff's Exhibit No. 12 [Agreement, Dated January 14, 1905, Washington Water Power Co. and Idaho Lumber & Manufacturing Co.].

THIS AGREEMENT, Made and entered into this 14th day of January, 1905, by and between The Washington Water Power Company, a corporation organized and incorporated under the laws of the State of Washington, party of the first part, and the Idaho Lumber and Manufacturing Company, a corporation organized and incorporated under the laws of the State of Idaho, party of the second part, WITNESSETH: That,

WHEREAS, the party of the first part has purchased of and from the party of the second part cer-

tain property in the vicinity of the town of Post Falls, in Kootenai County, State of Idaho, including riparian rights and water rights and the right to use water from the Spokane River for power purposes, and which has been, by deeds dated December 17th, 1904, transferred, conveyed and sold to and vested in the party of the first part by the party of the second part, and for which property and rights the first party has paid the second party a considerable sum of money in cash as part of the consideration for the said property so sold and conveyed:—

NOW, THEREFORE, In consideration of one dollar, in hand paid by the second party to the party of the first part, receipt of which is hereby acknowledged, it is hereby agreed as follows:

I.

That the party of the first part shall and will keep available from and by its electric plant in the vicinity of Post Falls, Idaho, for the use of the party of the second part, at that certain point in the vicinity of said town of Post Falls, which said point is more specifically described as follows, to wit: A point on the east and west center line of section three (3), in township fifty (50) north, range five (5) west, Boise Meridian, in Kootenai County, State of Idaho, eight hundred (800) feet west of the center of said section [97] three (3),—electric energy (as measured by standard measuring instruments as hereinafter provided), to the maximum amount of two hundred and fifty (250) horse-power (186 and $\frac{2}{3}$ kilowatts) continuously from and after the first day of April, 1905, (unless said service shall be interrupted as herein-

after provided). Said service shall be of twenty-four hours per day of each and every day of each and every year (and this contract shall be without limit as to time and duration), subject to the limitations contained in the terms and provisions hereinafter set forth.

II.

The electric energy to be so kept available by the first party to and for the second party shall be what is known as continuous twenty-four hour power, and the party of the first part shall and will cause to be provided as nearly as is reasonably practicable, a continuity of supply of electric energy to the party of the second part, and shall and will, as far as reasonably practicable preserve such continuity of supply, except in cases not avoidable by reasonable diligence, rendering necessary or proper the shutting down of the electric service so to be provided; and the party of the first part may, without subjecting itself to any claim for damages, after three days written notice to the second party, make or cause such interruption in the supply of said electric energy as may be reasonably necessary for the proper completion, repair or maintenance of the plant or lines of the first party from its electric plant in the vicinity of Post Falls, Idaho. It shall not be necessary to give any such notice when the interruption of current or energy so to be furnished shall occur notwithstanding such reasonable diligence on the part of the party of the first part.

The party of the first part shall not be required to furnish, nor shall it be liable for any failure to fur-

nish, uninterrupted current, nor shall it be required to keep, or be liable for any failure to keep, available said electrical energy if such interruption [98] or failure shall be caused wholly or partially, directly or indirectly, by the act of God, the public enemy, any riot or riots, strike or strikes, boycott or boycotts, labor trouble or labor troubles, or any suit, action, injunction, or any order or judgment of any court, or by any act or law of the State of Idaho, or of the State of Washington, of the United States, or any officer or agent acting for *or behalf* of either of said States or of the United States; or in the property of the party of the first part which it now owns or shall hereafter acquire in or bordering upon the Spokane River, in Kootenai County, State of Idaho, shall be taken or injured for public use or under the power of eminent domain, or in, without negligence on the part of the party of the first part, the water power which the party of the first part now has or may hereafter acquire in the vicinity of Post Falls, Idaho, shall be destroyed, injured or in such condition that the first party shall be unable to generate electric energy with said water power to the extent of one hundred eighty-six and two-thirds ($186\frac{2}{3}$) kilowatts.

In the event that the property purchased by the first party from the second party and described by said deeds hereinbefore mentioned, dated December 17th, 1904, made and executed by the party of the second part herein as grantor to the party of the first part herein as grantee, which said deeds and each of them were filed for record in the office of the county recorder of Kootenai County, State of Idaho,

on the 24th day of December, 1904, and are respectively recorded in said office on page 460-461 of Book 9 of records of deeds, and pages 462-463 of Book 9 of records of deeds, shall be damaged, taken or appropriated under the power of eminent domain or for public use as and in the manner provided by law, the first party shall, if possible, procure a separate judgment, decree, assessment and segregated amount of the damage done to the said property and the water power and water rights so purchased by the first party from the second party and described [99] in said deeds, so as to place the second party, as nearly as may be, in a position to secure the same compensation, damages and remuneration as if the said property, including water rights and power, were at the date of such taking or damage vested in the second party, and if such segregated and separate amount cannot be so had and procured, and the parties hereto shall be unable to agree thereon, the same shall be fixed by three arbitrators, one of whom shall be selected by the first party, and one of whom shall be selected by the second party, and the two arbitrators so selected shall select a third arbitrator. Said arbitrators shall be disinterested. The decision, in writing, of any two of said arbitrators shall be final and binding upon each of the parties. Their decision shall be in writing and shall be after there shall be an opportunity for each and all the arbitrators to meet together, and the decision or conclusion reached shall be announced at such meeting after the aforesaid opportunity, but need not then be reduced to writing. The amount so fixed shall be paid from

the fund received for and on account of such taking and damage assessed and paid to the second party in the proceeding or action to condemn and appropriate said property when such proceeding or action shall be and become final. It is agreed, however, that the property described in said deeds is also described in a deed from Alice L. Martin to the party of the first part herein, and the matter of damages and compensation covered by this paragraph shall be divided between the party of the second part to this contract and the said Alice L. Martin as their interests were at the time of the making of said deeds and conveyances.

III.

The party of the first part shall and will provide, at its own cost and expense, at or near the point where the said electric energy is so agreed to be kept available by the first party for the use of the second party as aforesaid, in places to be provided by the party of the second part, such standard measuring instruments as [100] may be proper, necessary or desirable to measure the electrical energy agreed to be kept available by the first party, and at which place and by said standard measuring instruments said electric energy so as to be furnished shall be measured.

IV.

The said electric energy so to be kept available as above specified shall be what is known as alternating three-phase of about sixty cycles per second, and having a pressure of approximately two thousand two hundred volts.

The party of the first part shall, however, have the right to change the form of electric energy to be kept available as aforesaid, provided that in making such change the amount of energy to be delivered and measured at the place and in the manner hereinbefore specified shall in no wise be diminished, and provided further that the cost of making such change or changes shall be borne by the party of the first part.

V.

Representatives of both parties hereto shall have access to all apparatus and transmission lines on the premises of the party of the second part at any and all times, and shall have the right to have any and all measuring instruments tested, retested and recalibrated at any time for the purpose of ascertaining the condition or accuracy of such instrument or instruments.

VI.

The party of the first part shall also have the right to enter upon the premises of the party of the second part for the purpose of constructing, repairing and maintaining the electrical transmission lines used for the purpose of supplying the electric energy herein agreed to be kept available by the party of the first part for the party of the second part, and the second party grants and gives to the first party the right to construct, maintain [101] and operate transmission line or lines upon and over any part of the premises and property of the second party to reach the place described in paragraph numbered one (1) hereof as the point where said energy shall be kept available, together with the right to erect and con-

struct and maintain any and all poles, arms, cross-arms, wires, and any other matter or thing that may be necessary or proper, including a telephone wire, if desired by the first party, which telephone wire shall also be extended from the electric plant of the first party to the place of business or office of the second party in the vicinity of the place where said energy is to be kept available as described in paragraph one (1) hereof. And in the event that it shall be or become necessary, in order to make or keep available the said electric energy at the said point described in paragraph numbered one (1) hereof, that transmission line or lines and telephone line, or either of them, be erected, constructed or maintained upon or across any premises or property other than the premises and property of the parties hereto, or the premises and property of one of them, the second party shall, at its own cost and expense, and without cost and expense to the first party, procure and obtain the necessary right of way upon and over such premises and property upon, over and along which to erect, construct, maintain and operate such transmission line or lines and telephone line.

VII.

The party of the first part hereby agrees to pay the second party a sum of money not to exceed fourteen thousand dollars (\$14,000.00) for the purpose of reimbursing the party of the second part for the expenditures made and to be made by the second party in connection with the following items:

a. The work done, or in progress of being done, upon the construction of a sawmill at the present

time at Post Falls, Idaho, including a coffer-dam, and construction of wing walls and dam, and [102] placing of materials, etc., for such improvement.

b. The removal or reconstruction of the present saw-dust burner, to a site on the present premises of the party of the second part at Post Falls east of the present saw-mill and plant of the party of the second part, and on the north bank of the Spokane River.

c. The removal or reconstruction of the present dry-kilns to the new location as above designated.

d. The removal and re-erection of the boilers and boiler plant of the party of the second part to a new location as above described.

e. The removal of various sheds, blacksmith shop, etc., to the same location.

f. The cost of changes in machinery now under order by the party of the second part, such changes being necessary by the change in the plant from the construction of the present water power saw-mill to the construction of an electrically operated saw-mill contemplated under this contract.

VIII.

This contract expresses and contains the entire contract on the subject matter hereof. This contract shall not be modified or varied except by written contract. If at any time the terms hereof are not strictly adhered to or enforced, they shall not thereby be deemed waived or modified, but shall as to all subsequent times and dates be deemed in full force and effect unless modified in writing.

IX.

The provision of this contract shall inure to the

benefit of and be binding upon the parties hereto, their heirs, executors, administrators, representatives, successors and assigns, including vendees, purchasers, lessees, renters mortgagees, and any and all other persons, whether claiming by act of party or by operation of law or otherwise. [103]

IN WITNESS WHEREOF, The parties hereto have caused their respective names to be subscribed to this instrument by their respective presidents and secretaries and their respective corporate seals to be hereunto affixed in pursuance of resolutions of their respective boards of trustees, in duplicate, the day and year first above written.

THE WASHINGTON WATER POWER
COMPANY,

By D. L. HUNTINGTON,
2d Vice-President.

[Seal] Attest: H. L. BLEECKER,
As Secretary.

IDAHO LUMBER AND MANUFACTUR-
ING COMPANY.

By JAMES McNAIR,
As President.

[Seal] Attest: H. M. STRATHERN,
As Secretary. [104]

State of Washington,
County of Spokane,—ss.

On this 2nd day of February, A. D. 1905, before me personally appeared D. L. Huntington and H. L. Bleecker to me known to be the 2nd Vice President and Secretary, respectively of

THE WASHINGTON WATER POWER COM-
PANY

the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they, and each of them, were authorized to execute said instrument, and that the seal affixed is the seal of said corporation, and was so affixed to said instrument by the authority in them vested by the Board of Trustees of said corporation, and that they signed the said instrument by like authority.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

[Seal]

W. J. McKEAN,

Notary Public in and for the State of Washington,
Residing at Spokane, Washington. [105]

*Notary Public in and for the State of Washington,
Residing at Spokane, Washington.*

State of Washington,
County of Spokane,—ss.

On this 14th day of January, A. D. 1905, before me, the undersigned, a notary public in and for the State of Washington, personally appeared Mr. James McNair and H. M. Strathern, to me known to be the president and secretary respectively of the Idaho Lumber and Manufacturing Company, one of the corporations that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of

said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

[Seal]

E. T. WHITE,

Notary Public in and for the State of Washington,
Residing at Spokane, Washington.

Filed August 20. A. L. Richardson, Clerk.

[106]

**Plaintiff's Exhibit No. 13 [Agreement, Dated
December 17, 1904, Idaho Lumber & Manufacturing Co. and Washington Water Power Co.]**

THIS INDENTURE, Made this 17th day of December, A. D. 1904, between the IDAHO LUMBER AND MANUFACTURING COMPANY, a corporation, organized and incorporated under the laws of the State of Idaho, the party of the First part and THE WASHINGTON WATER POWER COMPANY, a corporation organized and incorporated under the laws of the State of Washington, party of the second part.

WITNESSETH: That the said party of the first part, for and in consideration of the sum of Five Dollars, to it in hand paid by the said party of the second part, the receipt of which is hereby acknowledged, does by these presents grant, sell, convey, remise, release and forever quit claim unto the said party of the second part, and to its successors and assigns, all that certain tract, piece and parcel of

land, situated in the County of Kootenai, State of Idaho, which is shown by the blue print or map attached hereto, marked Exhibit "B" and made a part hereof, the said premises being the premises as shown and represented on said blue print or map as enclosed by a red line, and which said premises are described as follows, to wit:

STARTING POINT.

Commencing at a parting point described as follows: Fifty (50) feet north of the meander corner stake on the north bank of the north channel of the Spokane River between sections three (3) and four (4), in township fifty (50) north, range five (5) west, B. M.; running thence east one thousand three hundred eighty-three (1383) feet to a point on the center line of *Six* street of the town of Post Falls, Idaho; thence south one thousand one hundred twenty-four and four-tenths (1124.4) feet to a point, which is marked "A" on said blue print; thence west two hundred ninety-three (293) feet to a point on the east bank of the north channel of the Spokane River, which is the true place of beginning. [107]

PROPERTY CONVEYED.

running thence south from said true place of beginning ten degrees (10 deg.) east one hundred (100) feet; thence south nineteen degrees (19 deg.) east two hundred ten (210) feet; thence south thirty-three degrees (33 deg.) east two hundred ten (210) feet; thence east two hundred eleven (211) feet to the west bank of a canal or sluice thence southerly along the west bank of said canal or sluice to a point at low water mark on the east bank of the north

channel of said Spokane River; thence westerly around the point of land, and thence northerly along the low water mark along the east bank of the north channel of said river to the true place of beginning Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances, unto said party of the second part, and to its successors and assigns, forever.

IN WITNESS WHEREOF, The said party of the first part has caused its name to be subscribed to these presents by its proper officers and its seal to be hereunto affixed, pursuant to resolution of its board of trustees, the day and year first above written.

IDAHO LUMBER AND MANUFACTURING COMPANY.

[Corporate Seal]

By JAMES McNAIR,
President.

Attest: H. M. STRATHERN,
Secretary.

Signed, sealed and delivered in presence of

E. T. WHITE.

ELIZABETH R. STOUT. [108]

State of Washington,

County of Spokane,—ss.

On this 17th day of December, A. D. 1904, before me personally appeared James McNair and H. M.

Strathern, to me known to be the president and secretary respectively of the Idaho Lumber and Manufacturing Company, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first above written.

[Seal] E. T. WHITE,
Notary Public in and for the State of Washington,
Residing at Spokane, Washington.

Filed August 20, 1912. A. L. Richardson, Clerk.
[109]

**Plaintiff's Exhibit No. 14 [Agreement, Dated
December 17, 1904, Idaho Lumber & Manu-
facturing Co. and Washington Water Power
Co.].**

THIS INDENTURE, Made this 17th day of December, A. D. 1904, between the IDAHO LUMBER AND MANUFACTURING COMPANY, a corporation, organized and incorporated under the laws of the State of Idaho, the party of the first part, and THE WASHINGTON WATER POWER COMPANY, a corporation organized and incorporated under the laws of the State of Washington, the party of the second part,

WITNESSETH: That the said party of the first part, for and in consideration of the sum of Five (\$5.00) dollars, to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does by these presents grant, bargain, sell, convey and confirm unto the said party of the second part, and to its successors and assigns, forever, the following described piece, parcel and tract of land, situate in the County of Kootenai, State of Idaho, which is shown by the blue print or map attached hereto, marked Exhibit "B" and made a part hereof, the said premises being the premises shown and represented on said blue print as enclosed by a red line, and which premises are bounded and particularly described as follows, to wit:

STARTING POINT.

Commencing at a starting point described as follows: Fifty (50) feet north of the meander corner stake on the north bank of the north channel of the Spokane River between sections three (3) and four (4), in township fifty (50) north, range five (5) west, B. M.; running thence east one thousand three hundred eighty-three (1383) feet to a point on the center line of Sixth street of the town of Post Falls, Idaho; thence south one thousand one hundred twenty-four and four-tenths (1124.4) feet to the true place of beginning, which is marked "A" on said blue print.

PROPERTY CONVEYED.

running thence west from said true place of beginning two hundred [110] ninety-three (293) feet to the east bank of the north channel of the Spokane

River; thence south ten degrees (10 deg.) east one hundred (100) feet; thence south nineteen degrees (19 deg.) east two hundred ten (210) feet; thence south thirty-three degrees (33 deg.) east two hundred ten (210) feet; thence east two hundred eleven (211) feet to the west line of a canal or sluice; thence northerly along the west bank of said canal or sluice to a point; thence west sixty-four (64) feet to the true place of beginning.

Together with all water rights and the right to use water and all water power, and all the rights pertaining or relating to water or the use of water or water power, granted or conveyed by Frederick Post and Margaret Post, his wife, by warranty deed dated May 13th, 1893, which deed was filed for record in the office of the County Recorder of Kootenai County, State of Idaho, and is of record in said office at page 417 of Book K of deeds, which deed is to Chas. M. Paterson and H. M. Strathern; and which rights conveyed by said deed to the grantees therein have been subsequently by mesne conveyances transferred and conveyed to, and are now owned and held by the grantor herein. It is intended hereby, and this deed shall be construed to be a deed, transfer and conveyance to and a vesting in the grantee herein of any and all rights to the use of water or the use or development of water power and all water rights or the right to use water acquired, granted, given, conveyed, or transferred to or vested in the grantees in said deed last above-mentioned, or either of them, their successors and assigns.

TO HAVE AND TO HOLD THE SAID PREMISES AND PROPERTY, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the rents, issues and profits thereof, unto said party of the second part, its successors and assigns, forever.

And the said Idaho Lumber and Manufacturing Company, party of the first part, for itself and its successors, does covenant with [111] the said party of the second part, its successors and assigns, that said party of the first part is well seized in fee of the lands and premises aforesaid, and has good right to sell and convey the same in the manner and form aforesaid, and that the same are free from all encumbrances.

And the said party of the first part, and its successors, the said premises and property, in the quiet and peaceable possession of the said party of the second part, its successors and assigns, against all and every person and persons whomsoever lawfully claiming or to claim the same, or any part thereof, shall and will warrant, and by these presents forever defend.

IN WITNESS WHEREOF, The party of the first part has caused its name to be subscribed to these presents by its proper officers and its corporate seal to be affixed hereto, in pursuance of resolution

of its board of trustees, the day and year first above written.

IDAHO LUMBER AND MANUFACTURING COMPANY.

[Corporate Seal]

By JAMES McNAIR,

President.

Attest: H. M. STRATHERN,

Secretary.

Signed, sealed and delivered in presence of:

E. T. WHITE.

ELIZABETH R. STOUT. [112]

State of Washington,
County of Spokane,—ss.

On this 17th day of December, A. D. 1904, before me personally appeared James McNair and H. M. Strathern, to me known to be the president and secretary respectively of the Idaho Lumber and Manufacturing Company, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first above written.

[Seal]

E. T. WHITE,

Notary Public in and for the State of Washington,
Residing at Spokane, Washington.

Filed August 20, 1912. A. L. Richardson, Clerk.

[113]

[Plaintiff's Exhibit No. 15.]

Grantor.	Grantee.	Date of Deed.	Description.	Consideration.	Valuation 1911 after Equalization.
F. L. Wells	F. W. Fitze	Feb. —, 1911	E½ of Lot 4 Blk Q town of Cda	4000	2125
F. L. Wells	Jos. Boio	July 17, 1911	Lot 14 Blk. 2 Taylors Park	400	340
Annie Weil	Benj. Zimmer	July 1, 1911	Lot 9, Blk. 27 Town of Cda.	1900	1105
Maud M. Cooper	Bert Baird	July 24, 1911	Lot 6, Blk. D City of Cda.	400	552
John B. Taylor et al.	C. A. Overton	July 26, 1911	Tr. 24 & W½ of Tr. 23 Fruitlands Add.	700	(23-24-25) 655
Bertha Servis	C. E. Tholen	June 12, 1911	Lot 2 Blk. 2 Varnums Add.	500	234
H. B. Tref	Jared H. Manley	July 28, 1911	Lot 3 Blk. 11 O'Briens Add.	1200	890
Barnet M. Whiting	J. A. Singer	April 26, 1911	N. 26 ft. of S. 60 Ft. Lot 6 Blk. H Town of Cda.	3000	1020
Wm. E. Seelye	Raymond W. Seelye	Aug. 11, 1911	Lots 1 & 2 Blk. 28 Lakeshore Add.	850	298
John B. Taylor	W. J. Baxter	Aug. 18, 1911	Lot 4, Blk. 5 Sanders Park Add.	300	425
Letitia V. Hunt	Ed. Gunn	Aug. 21, 1911	Lots 1, 2, 3, 4, Blk. 32 Sherman Add.	450	340
Geo. Hawk	J. H. Robinson	June 26, 1911	Lot 3 Blk. B. Nevins Add.	150	64
Willard A. Hieks	Mary Brennan	June 27, 1911	Lot 3 Blk. 4 Kaesemeyer Add.	225	60
Robt. H. Elder	C. H. Potts	Aug. 15, 1911	S½ of Lots 1 & 2 Blk. 13 Reid's Add.	1600	70 each
Delia Culler	W. D. Laird	Aug. 21, 1911	Lot 7 Blk. 19 Forest Heights	1200	340
Daniel Devine	E. N. Bell	Sept. 18, 1911	Lots 11 & 12 Blk. 4, O'Briens 1st Add.	3000	2225
Estelle Graham	Knute H. Larson	July 25, 1911	E½ of Tr. 14 & 15 Tr. A. Columbus Park	325	340
Fred E. Wanncott	Robt. H. Elder	May 5, 1911	Lot 2 Blk. 4 Sims Add.	100	128
Andrew Doe	H. C. Taylor	Sept. 18, 1911	Lot 11 Blk. 1 Lakeshore Add.	250	106
John E. Nordstrom	Elzear Pelletier	Oct. 30, 1911	S½ of N½ of Blk. 3 Reids Add.	850	680
John E. Taylor et al.	John A. McFarlane	Oct. 3, 1911	Lot 7 Blk. 18 Reids Add.	800	(Lots 6 & 7) 1460
Sophonria A. Hill	W. H. Park	Oct. 3, 1911	W 50 ft. lot 14 Blk. 13 Reids Add.	2000	795
Frank P. McNutt	Albert M. Miller	Oct. 11, 1911	Lots 1 & 2 Blk. 14 Roche Park Add.	600	145
Burton Gross	Herbert W. Stieckney	Dec. 4, 1911	Lot 6 Blk. 10 Simms Add.	2250	1589
Geo. K. Evans	Wm. O'Neal	Oct. 30, 1911	Lots 3, 4, 5, Blk. 20 Lakeshore Add.	350	43 each
Olaf Benson	Fritz Lillie	Dec. 7, 1911	Lots 7 & 8, 9, 10, 11, 12, Blk. 3 Columbus Park	1000	552
Wm. Garrey	Louisa Garrey	Dec. 6, 1911	Lot 2 Blk. 16 Reids Add.	750	701
Pameila R. Harte	W. B. Burdick	Nov. 11, 1911	Lots 5 & 6 Blk. 22 O'Briens 3rd.	1000	760
John J. O'Brien	C. A. Hawkins	Dec. 15, 1911	Lot 4 Blk. 38 O'Briens 4th Add.	350	(Lots 3-4-5) 1190
John J. O'Brien	N. E. Nelson	Dec. 15, 1911	Lot 3 Blk. 38 O'Briens 4th Add.	350	(Lots 3-4-5) 1190
H. C. Michie, Jr.	Elizabeth A. Hand	Sept. 28, 1911	Lot 10 Blk. 28 Lakeshore Add.	550	255
Syinda A. Warren	C. D. Stevens	Dec. 21, 1911	Lots 12, 13, 14 Blk. 15 O'Briens 2nd. Add.	800	12 & 13 are 213 each 14 is 255

Grantor.	Grantee.	Date of Deed.	Description.	Consideration.	Valuation 1911 after Equalization.
J. B. Hogan	Mary Brennan	Jan. 13, 1911	Tract 4 Sherman Park	500	319
Jos. Nadeau	J. E. Petersen	Jan. 9, 1911	Lot 4 Blk. 8 O'Briens 1st Add.	800	553
John B. Taylor et al.	Gilbert Telford	Jan. 18, 1911	Lot 3 Blk. 2, College Add.	80	43
John B. Taylor et al.	Julia A. Malkson	Jan. 23, 1911	Tracts 12 and 13 Fruitlands.	1000	1793
J. W. Palmerton	Guas Tompkins	Jan. 26, 1911	Tract 61, Sherman Park	800	425
Fred L. Borgan	B. A. Loveless	Jan. 13, 1911	W $\frac{1}{2}$ of Lot 2 Blk. 1 Russell Add.	2000	2438
John J. O'Brien	Jas. V. Hawkins	Feb. 4, 1911	Lot 7 Blk. 30 O'Briens 4th Add.	1625	893
Thos. E. Hedel	Mary O'Keefe	Jan. 31, 1911	Lots 7 & 8 Blk. 24 O'Briens 3rd.	650	255 each
Hayden-Cd.A Irr. Co.	F. W. Fitze	Jan. 17, 1911	Lot 5 Blk. 12 O'Briens 2nd	1000	680
Hans P. Jorgenson	L. W. Libby	Feb. 23, 1911	Lot 4 Blk. 1 Stetlers Add.	275	(Lots 3 & 4) 127
T. B. Leonard, Executor	Morris B. Sampson	March 4, 1911	Tract 89 Sherman Park.	1000	723
W. S. Gentry	Sallie Gentry	March 6, 1911	Lot 14 Blk. 17 Reids Add.	500	(Lots 13 & 14) 957
John B. Taylor et al.	F. A. Rupp	Feb. 6, 1911	Lot 1 Blk 5 Taylors Add.	360	319
Geo. C. Middlebrook	Clare A. Hodge	March 5, 1911	Lot 7 Blk. 3 North Park Add.	1320	widow
Grant M. Pickett	Edna Wilson	March 20, 1911	Lots 6 & 7, Blk. 10 Roche Park Add.	300	34 each
W. E. Merriam	C. Bernhard	March 21, 1911	Lot 1 Blk. 6 Russells Add.	1000	660
John B. Taylor	C. A. Wilen et al.	March, 21, 1911	Lot 11 Blk. 4 Lakeshore Add.	200	128
Anna Stallsmith	Daniel Casey	March 27, 1911	Lot 10 Blk. 6 Columbus Park	1300	760
John B. Taylor et al.	David Nevins	March 29, 1911	Lot 12 Blk. 7 Taylors Add.	1468	638
John B. Taylor	Albert H. Featherstone	Jan. 2, 1911	Lot 9 Blk. B Town of CdA.	5000	1998
L. M. Burton	Wm. M. Toles	March 21, 1911	Lots 10 & 11 Blk. 12 Lakeshore Add.	600	255
L. E. Danes	Kate P. Bonneville	April 8, 1911	Lots 11 & 12 Blk. E City of CdA.	650	510
Marie E. Blair	Arthur Wigfield	April 14, 1911	Lots 11 & 12 Blk. 18 O'Briens 3rd Add.	875	425
Wallace Lovely	C. L. Drew	April 10, 1911	Lots 4 and 5, Blk. 7 Taylors Add.	3000	1283
R. H. Mercer	N. D. Wernette	Feb. 13, 1911	Lots 2 Blk. 9 O'Briens 2nd. Add.	1600	935
Alyvons V. Rehm	Maggie McNutt	May 17, 1911	Lots 1 & 2 Blk. 14 Roche Park Add.	500	145
Jos. G. Scholtz	Jos. Malham, Sr.	May 25, 1911	Lot 3 Blk. 2 Blackwell Park	1600	893
Alice E. Baldwin	Maud B. Fulkerson	May 27, 1911	Lots 5 & 6 Blk. 44 Simms Add.	500	170
John A. Clarke	Peter Lund	June 1, 1911	Tracts 41 & 42 Fruitlands Add.	925	638
Nora Bernhard	H. B. Waddell	June 5, 1911	Lot 1, Blk. 6 Russells Add.	500	660
Edward McManegal	Jas. F. Flynn	June 28, 1911	Tracts 59 & 60 Fruitlands Add.	1800	510
C. K. Leithe	Wm. A. Daggett	July 10, 1911	Lot 6 Blk. 4 Forest Heights Add.	1050	680
Paul M. Elder	Frederick N. Kilborn	June 28, 1911	Lot 14 Blk. 2 Hnnts Add.	950	510
Landon C. Irvine	Winnett Bedall	May 23, 1911	Lots 4 & 5 Blk. 19 Town of CdA. . . . 3000		1275

Grantor.	Grantee.	Date of Deed.	Description.	Consideration.	Valuation 1911 after Equalization.
Elizabeth N. Palmeter	Chas. Carlson	Nov. 9, 1911	Lots 8 Blk. 30 Town of Cda.	1100	702
F. W. Esgate	W. F. Bigelow	Jan. 20, 1912	Lots 7 & 8 Blk. 35 O'Briens 4th.	650	(Lots 7-8-9) 979
Mary Smith	Daisy Gay	Jan. 27, 1912	Lot 5 Blk. 3 Costello Park	190	107
Jos. Boie	Jos. Bruschkiewitz	Jan. 25, 1912	Lot 14 Blk. 2 Taylors Park	700	340
Sophia Ruth	Lawrence M. Larson	Dec. 28, 1911	Lot 2 Blk. 6 O'Briens Add.	1400	1063
John B. Taylor et al.	E. D. Brink	Feb. 3, 1912	Lots 5 & 6 Blk. 6 Taylor's Add.	750	595
John B. Taylor et al.	Mary F. Scott	Feb. 23, 1912	Tr. 35, 36, 37, Fruitlands Add.	780	255
E. V. Boughton	Lillie A. Williams	Feb. 17, 1912	Lot 1 Blk. 2 Varnums Add.	1900	805
Lillie A. Williams	E. V. Boughton	Feb. 17, 1912	Lot 6 Blk. 19 Forest Heights	3000	1162
Caesar Masini	Anne McKinnon	Feb. 2, 1912	Lot 8 Blk. 4 North Park Add.	250	213
Edward Lawson	Emma O'Dell	Feb. 27, 1912	Blk. 43 Simms Add.	3200	1360
Arthur A. Warner	Alma D. Sowder	Feb. 14, 1912	Lots 9 & 10 Blk. 7 Woodlawn Park	1250	460
W. J. Baxter	M. J. Wernette	Mar. 18, 1912	Lot 4 Blk. 5 Sanders Park	950	425
Merion Woodruff	John M. Bennett	Jan. 10, 1912	Lots 8 & 9 Blk. 5 Columbus Park	375	170
Frank F. McNutt	Albert M. Miller	Feb. 13, 1912	Lots 1 & 2 Blk. 14 Roche Park Add.	600	145
V. W. Sander	Charlie Gridley	Mar. 28, 1912	Lots 12, 13, 14, Blk. 27 Lakeshore Add.	1600	972
John B. Taylor et al.	C. W. Dority	Apr. 2, 1912	Lot 1 Blk. 17 Taylors Add.	605	170
Emma Peterson	Theodore Hill	Apr. 1, 1912	Lot 3 Blk. A Sanders Add.	500	225
Mary E. Robinson	Jos. Druschkiewitz	Apr. 2, 1912	Lot 15, Blk. 2 Taylors Park	1200	616
Chas. Perrault	Columbia Investment Co.	Feb. 19, 1911	Lot 8 Blk. 29 Town of Cda.	1600	935
John O'Connor	Robt. I. Shontz	Mar. 25, 1911	S½ of Tr. 79 Fruitlands	4000	425
John B. Taylor	First National Bank	Mar. 8, 1911	E½ of Lot 2 Blk. H Town Cda.	1000	3655
Fred L. Tiffany	Ethel Johnson	Apr. 24, 1912	Lot 2 Blk. 13 Simms Add.	200	149
Fred B. Chase	Fred B. Wolff et al.	Apr. 16, 1912	Lots 5 & 6 Blk. 6 Lakeshore Add.	500	255
Minnie Dehlin	Elizabeth Delaney	Nov. 25, 1911	Lot 6 Blk. 5 O'Briens 1st Add.	1500	850
Wm. Dollar	Geo. S. White	May 9, 1912	Lots 11 & 12 Blk. 5 Kaesemeyer Add.	200	179
Phyllis Gunderson	R. M. Hart	May 11, 1912	N½ of Lot 6 Blk. M. Town of Cda.	(100)	not true Con. 3230
Maggie E. Rice	Adolph Donart	Mar. 20, 1912	Lot 2 Blk. 2 Russells Add.	1000	935
Mary Schroeder	Sadie A. Hatfield	May 7, 1912	Lot 15 Blk. 2 W. H. Hunts Add.	3500	1487
Wm. C. Harris	Patrick Lundy	May 29, 1912	Lot 4 Blk. 12 Simms Add.	100	128
John B. Taylor et al.	Patrick Lundy	June 4, 1912	Lots 9 & 10 Blk. 3 College Add.	200	170
John B. Taylor et al.	Frank Yuhas	June 10, 1912	Lots 10 & 11 Blk. 7 Lots 4 & 5 Blk. 8 College Add.	350	Lots 10-11 Blk. 7 213 Lots 4-5 Blk. 8 85

Grantor.	Grantee.	Date. of Deed.	Description.	Consideration.	Valuation 1911 after Equalization.
John B. Taylor	John O'Neil	June 15, 1912	Lot 3 Blk. 1 Lakeshore Add.	150	85
Ada Bailey	Anna Wright	May 12, 1912	Lot 6 Blk. B Sanders Add.	1100	468
Stephen M. Currie	Wm. H. Skinner	July 1, 1912	Lot 8 Blk. 11 O'Briens 2nd Add.	550	382
Wm. A. Baz	W. R. Williams	July 1, 1912	Lot 9 Blk. 14 Taylors Add.	350	85
Elizabeth Delaney	Lena Cunningham	May 7, 1912	Lot 6 Blk. 5 O'Briens 1st. Add.	1350	850
H. E. Mathews Admr.	T. S. Draper	Jan. 2, 1912	½ int. Lot 10 Blk. 17 Reids Add.	775	765
John J. O'Brien	Mary T. Tuttle	July 5, 1912	Lots 8 & 9 Blk. 33 O'Briens 4th Add.	600	638
Frederick W. Heidelbach	Ada R. Smith	July 20, 1912	Lot 8 Blk. 7 Forest Heights	600	383

Filed August 20, 1912. A. L. Richardson, Clerk. [117]

Plaintiff's Exhibit 16.

Grantor.	Grantee.	Date	Subdivision.	Sec. or Lot.	Twp. or Blk.	Range.	Consideration.	Value placed upon property described by Assessor of Kootenai Co. for taxation purposes in 1911.	Record Book.	Page.
Marion C. Wharton	Robert B. Paterson	May 15 11	Lot 2	13	53	5 W	3500	616		
Wm. C. Nettleton	Fred R. Hupp	Feb. 27 11	W/2 NW; W/2 SW	26	52	3 "	3000	1632	42	648
Lane Lumber Co.	Ada B. Crossfield	May 13 11	E/2 SW; SE of NW; SW NE	27	49	1 "	2000	680	42	622
James P. Ledbetter	G. W. Rea	May 1 11	E/2 NE	26	53	3 "	4000	476	42	577
C. B. King	M. D. Wright	Mich. 24 10	SE of NE; E/2 of W/2 of SE/4	7	51	3 "	2000	1020	43	181
Thomas Gouge	Oliver R. Pate	Apr. 15 11	SW of SW; Lots 3-4 & SE of NW	5	43	2 "				
James L. Rogers	C. A. Walker	Mch. 18 11	SE of NE & E/2 SE.	32	44	2 "	12000	4122	42	519
Lewis B. Anderson	Mrs. Anna Benson	Apr. 17 11	SW/4	12	44	1 "	1200	1020	42	512
Robt. H. Muncy	Fred E. Melder	Apr. 5 11	NW of SE & Lot 2	2	49	4 "	1500	885	43	149
Joseph McEachern	John Tiede	Jan. 4 11	NE/4	33	53	5 "	1250	544	43	145
Avery A. Houck	T. J. Demorest	Oct. 6 09	S/2 NE; NW of NE SE of NW.	18	53	3 "	4000	1131	42	400
				28	52	5 "	4000	1609	42	392
Howard C. Thompson	D. E. Danby, et al.	Mch. 24 11	NE/4	20	52	5 "	1000	680	43	119
Clara H. Bradford	Harry G. Crawford	Jan. 21 11	N/2 NE; SE of NE E/2 SW of NE	23	48	2 "	5000	978	42	382
Patrick H. Wall	Lane Lumber Co.	Mch. 11 11	Lots 5-6-7-8-	1	47	2 "	5300	680	42	293
Thomas Grady	John F. Fox	Dec. 17 10	N/2 SE; S/2 NE	17	43	1 E	4250	1190	43	66
Veronica Shields	Rose Lake Lumber Co.	Feb. 13 11	E/2 SW; NW of SW SW of SW	7	49	1 W	4000	2312	43	1
Phillip Brode	Mary Heyn	Jan. 5 11	SE of SW	30	50	4 "	950	170	43	6
S. E. Beggs	Thomas Hye	Jan. 3 11	NW/4 S/2	35	53	3 "	9600	952	39	616
Albert Bolks	Hawkeye Fuel Co.	Jan. 17 1	S/2	26	53	4 "	5600	1360	39	582
J. W. Siler	N. Nelson	Nov. 30 10	SW of NW & Lot 2	27	52	4 "	1900	752	39	556
S. E. Beggs	Thomas Hye	Dec. 9 10	NW/4	30	52	4 "	3200	940	39	489
Joseph A. McLain	J. A. Deremore	Oct. 25 10	NW/4	26	53	3 "	2400	816	41	253
Fannie Colgate	Frank G. Minzel	Nov. 23 10	S/2 SW	28	52	4 "	2500	1041	39	430
Joseph Assed	Wm. C. Palmer	Nov. 12 10	N/2 NE; SE of NE SW of SE.	12	50	5 "	5250	660	41	146
				22	49	1 "				
Sarah D. Valentine	J. Gordon Marsh	Nov. 14 10	NW/4; SE/4 & E/2 SW/4	15	52	4 "	7500	2040	41	117

Value placed upon property described by Assessor of Kootenai Co. for taxation

Grantor.	Grantee.	Date.	Year.	Subdivision.	Sec.	Twp.	Blk.	Range.	Consid- eration.	Record Book.	Page.
Ira S. Troyer	H. L. Moody	Oct. 29	10	S/2 NW; & Lots 3 & 4	5	51	5	5 W	3000	41	82
Amel H. Knox	Ora M. Williams	Aug. 24	10	NW of NE; SW of SE	27	44	1	"	3000	41	81
Amelia Nicolai	Reuben Day	Nov. 3	10	Lots 1 & 2 S/2 SE;	3	51	5	"	8500	41	46
Adolph H. Albert	C. E. Berry	Oct. 18	10	SW of NE	34	51	5	"	1600	40	647
W. J. McClarc et al.	Eliza K. Beggs	Sept. 28	10	NW/4	28	51	4	"	8000	39	318
Andrew J. Van Amberg	Cornelia M. Van Domehn	May 3	11	Greenacres, Plat 5	3 & 4				2725		
C. R. Hesseltine	Elita M. Wooster	Mch. 18	11	Greenacres, Plat 2	14 & N/2	15			3000	42	585
Interstate Irrigation Co.	V. O. Kretsinger	Apr. 29	11	Hayden Lake Tracts	299				1500	42	556
Effie C. Burns	Joe Goldstein et al.	Apr. 10	11	Greenacres, Plat 5	89				1850	42	494
J. P. Thomas	J. S. Skinner	Feb. 9	11	Greenacres, Plat 7	3				2500	42	227
A. J. Van Amberg	James Neilson	Feb. 14	11	Greenacres Plat 5	5 & 6				4000	42	179
Hayden Cd'A Irri. Co.	Elmer E. King	Jan. 3	11	Dalton Gardens	140				1250	42	142
W. H. Honefenger	Wm. Dawson	Feb. 4	11	Avondale	75 & E/2	82			6000	39	626
J. S. King	J. S. Thomas	Dec. 3	10	Greenacres Plat 7	3				2000	42	89
W. F. Irish	Donald H. McLean	Mch. 11	10	Greenacres Plat 2	17				3500	41	374
Emil Kobles	O. P. Flensburg	Oct. 29	10	Greenacres Plat 7	127				1650	41	354
Spirit Lake Land Co.	T. M. Skok	Jan. 10	11	Spirit Lake	11	47			400		
Alice E. Baldwin	Mande F. Fulkerson	May 27	11	Simms Add Cd'A	5 & 6	44			500	43	255
Joseph G. Shultz	Joseph Malham, Sr.	May 25	11	Blackwell Park Add Cd'A	3	2			1600	43	253
John B. Taylor et al.	John W. Carr	Apr. 18	11	College Add Cd'A	10	8			200	43	165
L. M. Burton	Wm. M. Toles	Mch. 21	11	Lakeshore Add Cd'A	11 & 12	12			600	43	128
Anna Stallsnuth	Daniel Casey	Mch. 27	11	Columbus Park Add Cd'A	10	6			1300	43	102
Thomas E. Hedall	B. A. Loveless	Jan. 23	11	Russells Add Cd'A	W/2	2	1		2000	39	604
Spirit Lake Land Co.	Pearl E. Lubben	Nov. 15	10	Spirit Lake	16	20			350	41	158
James Hannah	Frank Benjamin	May 31	10	Spirit Lake	6	10			1200	41	72

Value placed upon property described by Assessor of Kootenai Co. for taxation

Grantor.	Grantee.	Mo. Day, Year.	Date.	Subdivision.	Sec.	Twp.	Range.	Consid-eration.	purposes in 1911.	Book.	Record Page.
Lewis Shaw	A. L. Hopkins	Sept. 7	11	S $\frac{1}{2}$ Tract 162 Hayden Lake				2700		43	501
Bradford-Kennedy Co.	Sarah C. McKee	Aug. 24	11	Lots 2 & 3	3	49	4 W	1100	765	43	501
G. W. Hoag	H. B. Lancaster	Sept. 7	11	NE $\frac{1}{4}$	34	50	5 W	3000	425	44	582
E. S. Harding	C. A. Stowe	Aug. 22	11	NW $\frac{1}{4}$	32	53	3 W	7500	1012	44	585
D. G. Hoekett	J. C. Long	Dec. 29	10	NE $\frac{1}{4}$	14	53	3 W	4000	2975	43	537
E. E. Seaton	F. G. Ziegler	Sept. 25	11	NW $\frac{1}{4}$	26	53	4 W	6500	995	43	527
A. H. De Wolf	W. J. Lang	Oct. 4	11	Lots 2 & 3	3	49	4 W	2000	1564	45	55
A. Nielson	W. J. Mnnkel	Oct. 9	11	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	8	49	4 W	900	425	43	577
F. J. Johnson	Leonard McCrea	Oct. 24	11	Lot 2	10	48	4 W	3000	340	43	594
Green Nance	L. R. Mairnet	Nov. 8	11	E $\frac{1}{2}$ of SW $\frac{1}{4}$	32	49	5 W	3000	553	43	634
W. T. Roe	F. J. Willard	Nov. 1	11	NW $\frac{1}{4}$	15	48	3 W	3500	408	45	269
L. L. Whitcomb	Alex. McDonald	Nov. 9	11	Lots 2 & 3	21	48	3 W	2000	485	46	31
M. J. Wessels	W. J. Hofman	Nov. 16	11	SW $\frac{1}{4}$	8	50	4 W	7600	680	45	355
[120]									Not on Roll		

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		Description of land	Named Consideration, (Dollars)	Acres	Value placed on property by Assessor for Taxation purposes 1911. (Dollars)	Date filed.
Mortgagor.	Mortgagee.					
John F. Burton	Russell Rogers	Lot 1 Sec. 12-48-6 W	1800	54	\$1432	6/30/1911
Henderson M. Rumberg.	Henry K. Priest	Tract 62 Dalton Gardens	650	5	531	6/30/1911
Thomas Hye	Emma E. Fillman	SW $\frac{1}{4}$ Sec. 26-53-3 W	1000	160	922	6/30/1911
H. L. Gilliland	Sarah F. Hunt	Tracts 14-18 Inc. Fruitland's Add.	2000	10	2762	6/30/1911
Chas. N. Downie	First Bank Harrison	E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 28-49-2 W.	1100	160	1309	6/30/1911
Alex. Anderson	Mosses Mummert	W $\frac{1}{2}$ SE $\frac{1}{4}$ S $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 32-54-2 W.	1200	160	1632	6/30/1911
W. L. Sommers	Armin & Tupper Mfg. Co.	SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 26, N $\frac{1}{2}$ SW $\frac{1}{4}$ 25-48-4 W	2000	160	1717	6/23/1911
John F. Burton	Anna C. Hanson	NE $\frac{1}{4}$ of SW $\frac{1}{4}$ SE $\frac{1}{4}$ of NW $\frac{1}{4}$ Sec. 5, T. 48 R. 5 W	800	80	935	6/16/1911
Christina Rumberg.	Henry Priest	Tract 63 & 64 Dalton Gardens.	1600	10	1063	6/1/1911
Henry C. Calhoun	Mrs. Evelyn Bird.	NW $\frac{1}{4}$ Sec. 28 T. 50, R. 3 W B. M.	2800	100	1726	6/2/1911
J. B. Campbell	J. B. Campbell, Jr.	SW $\frac{1}{4}$ Sec. 32 T 52 R 3 W B. M.	2000	160	1930	6/3/1911
Chs. B. Spear	A. E. Branson	Tract 28 Plat 5 Greenacres.	300	5	425	6/3/1911
C. Ross Lodwick	I. B. Casey	Blk. 24 Plat 4 Greenacres.	804	10	680	6/5/1911
J. A. Moberly	I. H. Stockdale	Tract 260 Hayden Lake Irrigation Tracts.	1100	10	850	6/6/1911
Ayers D. Lundy	Robt. C. Wellwood.	Tracts 2, 4, 14, 17, 18, 20, 30, Blk. 26 Post Falls Irr. T.	7000	70	5850	5/20/1911
Cornelia M. Van Domeln	Jessie B. Van Amburgh	Tracts 3-4 Plat 5 Greenacres	1200	10	850	5/24/1911

Mortgagor.	Mortgage.	Description of land	Named Consideration. (Dollars)	Acres.	Value placed on property by Assessor for Taxation purposes 1911. (Dollars)	Date filed.
Elsworth H. Ryder John H. Herwig	Jennie Monogle W. S. Peters	Mortgaged. Tracts 61-62 Plat 5 Greenacres. Tracts 155 & 156 Hayden Lake Irr. Tracts.	1000 1100	10 20	978 1700	5/26/1911 5/11/1911
A. W. Enslow C. H. Braden	G. A. Warsinska. Josiah Fisher	Tract 33 Plat 9 Greenacres. W $\frac{1}{2}$ Tract 189 Hayden Lake Irr. Tracts.	466 300	5 5	638 425	5/19/1911 5/15/1911
W. H. Prephoff W. E. Kope W. E. Kope	Edward Marcott Dora M. Schritsmeir Dora M. Schritsmeir	Tract 223 Hayden Lake Irr. Tracts. Tract 118 Hayden Lake Irr. Tracts. SW $\frac{1}{4}$ of NW $\frac{1}{4}$ & Lot 1 Sec. 16 T 50 R 3 W. B. M.	1000 900 1400	10 10 80	850 850 850	3/7/1911 5/1/1911 5/1/1911
Chas. H. Johnson.	Emma B. Stark	SE $\frac{1}{4}$ of SW $\frac{1}{4}$ SW $\frac{1}{4}$ of SE $\frac{1}{4}$ & Lots 8-9 Sec. 7 T 50 R. 4 W	2250	153	1190	5/8/1911
Lost Lake Lumber Co.	Warren Truitt	N $\frac{1}{2}$ of NW $\frac{1}{4}$ Lot 4 Part Lots 5-6-7 Sec. 11 T 50 R. 4 W	4000	133	3392	1/27/1911
E. B. Rippert	Thos. F. Holm	Tract 25 Blk. 31 Post Falls Irr. Tracts.	1500	10	850	1/27/1911
Fred H. Bradbury	M. L. Bevis	Lots 2-3 SW $\frac{1}{4}$ of NE $\frac{1}{4}$, SE $\frac{1}{4}$ of NW $\frac{1}{4}$ Sec. 2 T 51, R 5 W SW $\frac{1}{4}$ of SE $\frac{1}{4}$ Sec. 32 T 52 R 5 W	1500	194	1267	1/28/1911
E. B. Rippert	Thos. E. Holm	Tract 25 Blk. 31 Post Falls Irr. Tracts.	1500	10	850	1/30/1911
Goe H. Johnson.	Frank E. Smith	W $\frac{1}{2}$ of NW $\frac{1}{4}$ N $\frac{1}{2}$ of SW $\frac{1}{4}$ Sec. 13 T 48 N R 3	1000	160	1147	7/13/1911
Frank E. Durring	Austin Ready	Lots 6-7 15-16 Sec. 6 Lots 1-7 Sec. 7 R 48, R 1 W.	2700	164	1700	7/14/1911

Mortgagor.	Mortgagee.	Description of land	Named Consideration. (Dollars)	Acres.	Value placed on property by Assessor for purposes 1911. (Dollars)	Date filed.
Ezekiel Brown	Margaret Stevenson.	Mortgaged, E 1/2 of SE 1/4 NW 1/4 of SE 1/4 SW 1/4 of NE 1/4 Sec. 18 T 50 R 2 W.	1500	160	1700	7/20/1911
William Christian.	Chas. A. Bereh.	S 1/2 Sec. 21 T. 52 R. 4 W.	1000	320	1904	7/29/1911
T. A. Daughters	David Carrier	SE 1/4 Sec. 6 T 48 R 4 W.	1500	160	1445	8/17/1911
John H. Herwig	De Tweede Northwestern Pacific Hypotheek Bank.	Tracts 155-156 Hayden Lake Irri. T	900	20	1700	9/16/1911
Myrtle Hull	Chas. Corbet	E 1/2 Lot 2 SE 1/4 NE 1/4 part of Lot 1 Sec. 4 T. 48 R 1 E.	1600	87	918	9/22/1911
Bert V. Graham	Elizabeth Keith.	Tract 34 Plat 9 Greenacres.	400	5	595	9/28/1911
Josia Peterson	Mary A. Donovan.	NE 1/4 Sec. 34 T. 50 R. 3 W.	3000	160	2720	10/16/1911
J. H. Wood	Elizabeth Delaney	Tract 165 Dalton Gardens.	600	2	446	10/23/1911
J. A. Phippippi	Michael Wiltgen.	Tracts 190-191 Dalton Gardens.	500	4	426	10/26/1911
Wm. G. Wagnon	Herman Linke	Lots 34-36-46-48-50-52-62-64 Blk. 35 Post Falls Ir. T.	10000	80	6800	11/3/1911
E. B. Reppert	Post Falls Land & Water Co.	35 Post Falls Ir. T.	1500	10	850	11/7/1911
Levi Dellar	Arrow Kuhn	Part of Lots 1-2 Sec. 8 T. 52 R. 4 W.	6000	33	5100	11/15/1911
A. N. Bloomster.	Sarah E. Hawk	Tract 116 Dalton Gardens.	600	5	871	11/15/1911
Joseph Utter	1st State Bank Prescott.	SE 1/4 Sec. 20 T. 50 R. 4 W. SW 1/4 of SW 1/4 Sec. 21 T. 50 R. 4 W.	15000	200	1403	12/2/1911
Ona E. Generous	Henry O. Uber.	Tract 7 Blk. 32 Post Falls Ir. T.	1450	10	850	12/4/1911
Albert D. Loabs.	Sarah E. Hawk.	Tract 147 Dalton Gardens.	1000	5	892	12/7/1911
M. S. Martin	A. L. Lowell	Tracts 16-17 Plat 9 Greenacres.	1000	10	1063	12/7/1911

Endorsed, Filed May 6, 1913, A. L. Richardson, Clerk. [123]

**Plaintiff's Exhibit No. 17 [Report of Proceedings
Had Before County Commissioners of Kootenai
County, July 17, 1911].**

BEFORE THE COUNTY COMMISSIONERS OF
KOOTENAI COUNTY, IDAHO.

In the Matter of the Petition for a Reduction of
Assessment of Property of THE WASHING-
TON WATER POWER COMPANY, Lo-
cated in Kootenai County, Idaho.

BE IT REMEMBERED, that the above-entitled
matter came on to be heard at Coeur d'Alene, Idaho,
the 17th day of July, 1911 at 10 o'clock A. M. before
the above Commissioners.

There were present, Messrs. David Meyers,
(Chairman) J. L. Ferguson and George W. Flem-
ing, County Commissioners of Kootenai County;
Messrs. John P. Gray and Charles L. Heitman,
representing the Petitioner; Mr. N. D. Wernette,
representing Kootenai County, and Mr. Fred E.
Wonnacott, Assessor and Tax Collector.

Thereupon the following proceedings were had and
done, to wit:

Mr. GRAY.—There is a petition that was sworn
to. If you wish I will read this, so that all of the
Commissioners can hear it.

Comr. FLEMMING.—Yes, that would be better.

Mr. GRAY.—Who do you want—Wonnacott? I
will go up and get him if you wish.

Chairman MEYERS.—(At Phone.) I would like
the Assessor's office, if you please.

Mr. HEITMAN.—We are in session until we get

through, are we?

Comr. FERGUSON.—Yes.

Chairman MEYERS.—Is Fred C. Wonnacott there? Can you get in touch with him anywhere? The Washington Water Power [124] Company's representatives are here this morning. When he comes let him know, will you?

Mr. GRAY.—I will read this petition, so all three of your gentlemen can hear it. The stenographer need not take this. I can give you each a copy of it I think. You might each of you follow it. I will start in at the top of the second page. (Reading petition.)

In that copy of the petition which I have there I told you there might be some figures there that would require correction.

Mr. WERNETTE.—Yes, sir.

Mr. GRAY.—On page 2 at the top of the page, that should be, "The second Monday of January, 1911."

Page 3, you have a figure there, \$874,798.42 that should be \$854,339.42; and some place in there, the cost of that, on page 6, in that paragraph 7, 9th line, that should be \$5,000, the original cost of that bridge, instead of \$2,500.

Mr. WERNETTE.—Ought to be \$5,000?

Mr. GRAY.—Yes, that is, the original cost of it.

Mr. Gray resumed and concluded the reading of the petition.

Mr. GRAY.—Now, gentlemen, we have presented this petition and Mr. McCalla, the General Manager of The Washington Water Power Company is here, to be examined by you and to state any facts in con-

nection with this petition. I have said to you that Mr. McCalla will state to you the various figures and costs, and what that property earns; and I have said to you before, informally, that if you have any question of any of the figures that Mr. McCalla gives, if you get a certified accountant, I would prefer for you to get one who has had [125] experience in public service and investigations, and our books will be open to him for investigation, to satisfy you that we are correctly stating the figures, costs and earnings of that plant.

Comr. FLEMMING.—Did Mr. Wannacott himself place those valuations?

Mr. GRAY.—Yes, sir.

Mr. WERNETTE.—Where is Mr. Wannacott?

Comr. FLEMMING.—I have just phoned, but he is not in the office now, and he will be notified as soon as he comes in.

Mr. WERNETTE.—We will want him here.

Mr. GRAY.—Another matter that I spoke to Mr. Wernette about. He has that new pole line that has just been put into commission assessed at twenty-five miles in length; it is only twenty-three. I called Mr. Wernette's attention to it, and he said there would be no trouble about that, but I suppose I ought to file a petition, and if you will give me permission, I will file that during the day.

Mr. WERNETTE.—That will be all right. I think the Commission have not got any objection.

Mr. GRAY.—Mr. McCalla, if you will swear him, will state that that is the length of the pole line.

Comr. FLEMMING.—Have you read one of those petitions?

Mr. WERNETTE.—Yes, I have got it up there; I have not read it over yet.

Mr. GRAY.—One preliminary matter I wanted to take up, and that is the question of that pole line that you assessed at a thousand dollars a mile; it is only twenty-three miles instead of twenty-five. [126]

Assessor WONNACOTT.—If that is the case, why, that is certainly all right but we have not any—I should think that the Board ought to be advised as to the actual mileage. That is real, actual mileage, is it?

Mr. GRAY.—Yes, sir.

Chairman MEYERS.—Yes; there should be an affidavit to that effect.

Assessor WONNACOTT.—It should be cut \$2,000 on that mileage; there should be two miles cut off of that as assessed. It should be twenty-three instead of twenty-five. [We took our map for it.]

Mr. GRAY.—You got it pretty close. I will file the petition this afternoon. I think Mr. McCalla should be sworn. Swear him Mr. Meyers.

Chairman MEYERS.—On this matter of the mileage?

Mr. GRAY.—Yes, sir, and you can have his affidavit.

Comr. FLEMMING.—This gentleman ought to be here during all of this procedure. You might swear him to the statement of all that is pertinent to this matter.

Comr. MEYERS.—You swear the statements you

will give as to The Washington Water Power Company are true, and nothing but the truth, so help you God?

Mr. C. S. McCALLA.—Yes, sir.

Mr. GRAY.—On that item of pole line, Mr. McCalla, which has been assessed at twenty-five thousand dollars, one thousand dollars per mile, which is the new pole line running to the Pend d'Oreille line, what is the eastern edge of this county, what is the length of that pole line?

Mr. C. S. McCALLA.—Twenty-three miles.

Mr. GRAY.—I will simply file a formal petition asking for that reduction. [127]

Now, how would you gentlemen like to have me proceed with Mr. McCalla? Do you want to examine him about that?

Mr. WERNETTE.—Will you want to go into details first, or want to examine him and bring out certain facts.

Mr. GRAY.—I thought perhaps, Mr. Wernette, in view of the statement in the petition, it is not necessary for me to, unless you desire to have me do so. I can make a statement to the Commissioners and to you, which would perhaps assist you in examining Mr. McCalla, if you like.

Mr. WERNETTE.—You can do that if you want to.

Mr. GRAY.—Now, we have presented, gentlemen, this petition, in which we set forth the value of that plant, if based upon its cost. We also have set forth the value of the plant if based upon its earning capacity. My own judgment is that the earning capa-

city is always the proper method for arriving at the value of a public service plant of any kind. It is the one that is adopted practically in all of the States. It is impossible, of course, to definitely say that a public service property is worth just so many dollars, and it has been recognized in most of the States now by statute, requiring the assessment of these properties based upon their earnings. Of course, there is no statute in this State requiring that you shall fix the value of this property, based upon what it will earn, but we have submitted and suggested that that is the fairest and most reasonable method of arriving at its value.

Now, in getting at the cost value, which we have set forth there is \$854,000 and odd—I don't state it accurately—we have figured in the actual money cost of the entire property with, of course, the depreciation which has been [128] charged against it since its construction—which, of course, is allowed in all cases—to determine its value, based upon its earning capacity; we have taken the years 1909 and 1910, the two best years we have ever had, and have taken the average earnings for these two years. Of course, our business, like any other business, one year it is better than another; a mine or two shuts down in the Coeur d'Alene Country and the earnings are very greatly depreciated. We have taken the average for those two years. We have then capitalized that at ten times what the average earning was for each of those year; we have then deducted from it the amount at which these low lands have been assessed, the overflowed lands; at which the pole lines have

been assessed at which certain land between the Lake Coeur d'Alene and Post Falls have been assessed; some small buildings at Post Falls that were assessed at \$3,000 by Mr. Wannacott; the right of way of the pole line, assessed at \$4,800, and the assessed valuation of our property in Shoshone County which was \$135,000. Mr. McCalla testified to those figures—that all is a part of the plant.

Now, we are not protesting or objecting to the assessment upon those various items, and we are deducting that from the total value, based upon the earning capacity, and that gives you the sum which we have turned in here as the actual cash value based upon the earnings.

Now, Mr. Wernette, we have called attention to the fact that we think the entire plant should be assessed together, and that all of that land should be assessed together. It is difficult to distinguish between the value of those respective tracts of contiguous land, because they all constitute [129] together the one body of land surrounding the Water Power and connected with it, but as they have been assessed separately, and the dams and machinery and buildings assessed separately, we have done the best we could to distribute it, and we have put in the actual cost of the dams and fixtures, the actual cost of the power plant buildings, and all buildings there, and the actual cost of all machinery and have left the balance of the tract \$97,986. It is an arbitrary classification, because it is pretty difficult to distinguish between the value of one and the other but that is the only way that we could reasonably get at it.

There is one other matter that I call your attention to, and that is that we cannot follow Mr. Wonnacott in distinguishing between the various dams there, because we have carried that to the construction of the plant as one item, the construction of all of the dams, and it would be a pure estimate to say how much one dam cost and how much the other cost, because it was carried as one item, and everything that went into the construction of the dams was carried and is carried as one item; we can give the cost of all of them together, but to separate them would be purely an engineering estimate.

Now, with reference to this railroad spur and bridge down there, we call your attention to the fact that that was put in at the time the plant was constructed to haul machinery and material over there. It has not been used since; and abandoned spur, and the rails belong to the Northern Pacific; they are just simply leased to us or loaned to us to put down there and run that spur over. The bridge itself originally cost \$5,000, and it has not any [130] value now, except such value as might be attached to a place to walk across. Nothing has been done to it recently to keep it in order, and the Northern Pacific has been requested to remove the rails. The value of those rails is just the value of old steel; they are old rails; 65 or 56 pound rails; something like that; they are small rails, and all they are valuable for is as old steel, or for what you could buy similar rails for, which we allege is not in excess of the sum of \$2,500.

Now, the one item of that building on the reservation, that was a small wooden shack that happened to

be over here when the pole line ran across the Indian Reservation, up at the other end of this lake, and it is not used by us now, and has not been, and are trying to get rid of it; it is not worth anything, except pulling the boards down and carrying it away.

Now, I think I have stated to you generally what our claims are in that respect, and if you will inquire of Mr. McCalla.

C. S. McCALLA, having heretofore been sworn by the Chairman, was examined as follows:

(By Mr. WERNETTE.)

Q. What position do you hold in the company, Mr. McCalla? A. General manager.

Q. Did you have charge of the construction work of putting in the dam at Post Falls? A. Yes, sir.

Q. There are three separate channels there that dams have been up in, are there not?

A. Yes. [131]

Q. And then there is what is known as the building proper, the power-house there? A. Yes, sir.

Q. Now, what was the actual cost of construction of the dam on the north side, where the bear trap is at the present time?

A. I could not give you that, because we did not carry the cost of it in that way.

Q. You did not carry it in that way?

A. No. The dams as a whole are considered together. The mere fact that the river being divided into three channels would not be of any value to us to know what one cost, what the other cost.

Q. In other words, you figured the cost of placing the dams in the three channels? A. Yes, sir.

Q. All together? A. Yes, sir.

Q. Well, what was the actual cost of constructing the three dams in the three channels?

A. The value of the dams, taken from their actual cost is \$331,626, that is the present value, based on their actual cost.

Q. That is the present value? A. Yes, sir.

Q. Was that the cost?

Mr. GRAY.—Let him explain it.

Mr. WERNETTE.—All right.

Mr. GRAY.—When Mr. McCalla speaks of the present value, we are speaking as of the 2nd Monday in January, the figures are. [132]

Mr. WERNETTE.—I understand that.

The WITNESS.—The figures which you asked me for I have not, but the figures which I have just given you are from those figures, based on a four years' valuation, figured on three per cent depreciation per annum, which is a very conservative estimate. So you can get that by figuring it back.

Mr. WERNETTE.—Q. How many years do you figure back—to 1907?

A. That is taken for four year. The dam was completed in 1906.

Q. What was that value; give the figures?

A. \$331,626.

Q. And what was the actual cost of putting in the power house?

A. Taking the same basis of figuring, \$100,205.

Mr. GRAY.—Pardon me, Mr. Wernette, I think we will save some trouble if I correct you as you go along. That item is also carried, in addition to the

power-house, we have a transformer house connected with it.

The WITNESS.—That is one building, yes, power station.

Mr. WERNETTE.—Was the figure that you gave there just the power-house, or the power-house including the transformer?

A. What we call the power-house is the entire plant.

Q. The entire plant? A. Yes, sir.

Mr. HEITMAN.—Q. What was that amount, Mr. McCalla? A. \$100,205.

Mr. WERNETTE.—Q. That is the value the second Monday in January, 1911, was it Mr. McCalla? [133] A. Yes, sir.

Q. And then, of course, the actual cost at the time when it was constructed would be more; you are figuring a certain amount of depreciation every year?

A. Yes, taking the depreciation every year for four years.

Q. At what percentage?

A. At three per cent in the buildings.

Q. Now, how many units or wheels have you there?

A. There are five.

Q. Five wheels? A. Yes, sir.

Q. And what capacity have those wheels?

A. Twenty-two hundred fifty kilowatts each.

Q. How many horse-power would that be, Mr. McCalla? A. An average of 3,000 horse-power.

Q. For each unit, each wheel. So the total would be 15,000 horse-power, would it?

A. Yes, approximately.

Q. Approximately 15,000. Now, are you capable of furnishing that number of horse-power the year around under the present conditions with the water and the provisions you have for storing the water in Lake Coeur d'Alene? A. No, sir.

Q. You are not? A. No, sir.

Q. How many horse-power are you capable of furnishing on an average, Mr. McCalla, with the water as it existed during the years 1909, 1910 and 1911, up to the present time, say?

A. Well, with the average low water, we can furnish about 11,900. [134]

Q. Have you ever been able to furnish 15,000?

A. Oh, yes, we can furnish any quantity in high water, for a month or so.

Q. But that only lasts about a month or so, you say? A. Yes, sir.

Q. And how about the balance of the year?

A. Of course, what you can furnish depends entirely on the minimum in low-water season; we could not contract to furnish a man with power for but one or two months.

Comr. FLEMMING.—Are you figuring on horse-power now?

The WITNESS.—Yes, sir; figuring on horse-power.

Mr. WERNETTE.—*I not* figuring on kilowatts.

Q. Then how many horse-power are you safe in contracting for, Mr. McCalla, the year around?

A. Well, we are safe in contracting 11,900.

Q. What is an average price, Mr. McCalla, that

you receive per horse-power for the power that you are furnishing?

A. An average price per horse-power, well, I don't know as I could give you that in figures; we don't figure it that way. We get, delivered in the Coeur d'Alenes, about \$30 a horse-power for which we sell it on the basis of kilowatt hours.

Q. About how many horse-power do you furnish to the Coeur d'Alenes; taking into consideration the amounts you have been furnishing in the years 1910 and 1909?

A. In kilowatt hours, I think I can give you that; I don't know that I could give you it offhand in horse-power.

Q. Give it in kilowatt hours then. A person can figure it out. It is just a matter of mathematics.
[135]

A. Yes, sir. (Referring to memo.) We furnished about 39,000,000 kilowatt hours in the year 1910.

Q. 39,000,000? A. Yes, sir.

Q. To the Coeur d'Alenes? A. Yes, sir.

Mr. GRAY.—Q. How about the year 1909?

A. 1909, about 33,000,000. That is the total furnished in Idaho.

Q. What is that?

A. That is the total furnished in Idaho.

Mr. WERNETTE.—Q. That is not the amount then that was furnished to the Coeur d'Alenes?

A. No.

Q. Have you that Mr. McCalla?

A. We furnished to Shoshone County—which is practically the Coeur d'Alenes,—about 24,000,000.

Q. Kilowatt hours?

A. Kilowatt hours, yes, sir.

Q. That includes then various towns that you furnished power to? A. Yes, sir.

Q. And also the mines?

A. That includes all the power furnished in Shoshone County.

Q. Now, how much power have you been furnishing to various companies and persons in Kootenai County during the year 1909?

A. Kootenai County we furnished the difference there between the amount furnished in Shoshone County and the total figures which I gave you, 33,000,000 and 24,000,000.

Mr. GRAY.—9,000,000? [136]

A. Yes, sir.

Mr. WERNETTE.—Q. 9,000,000 kilowatt hours?

A. Of course, to that 24,000,000 should be added the loss; that 24,000,000 in Shoshone County is measured at the consumer, and then there is the loss, which runs about ten per cent, loss in transmission, it figures about ten per cent; that amounts to about nearly 2,500,000.

Q. I will also ask you how much power did you furnish to parties and companies in Kootenai County, during the year 1910, if you have that there, Mr. McCalla?

A. Do you want it in total?

Q. Well, the total amount.

Mr. GRAY.—Just the total.

A. I have the total; it gives it here as about eight million.

Mr. WERNETTE.—Q. 8,000,000 kilowatt hours?

A. 8,000,000 kilowatt hours.

Q. Do you furnish any power from the plant at Post Falls to any persons or corporations outside of Shoshone and Kootenai Counties?

A. Well, the differences between the total generated and that sold there, we send into Spokane or other places.

Q. How much is that, about how much?

A. In 1910 we delivered at Spokane about 16,000,000; in 1909 about 11,000,000.

Q. How much have you been getting per kilowatt hour, or horse power, whichever way you figure it, for the power that you furnish in Kootenai County, Mr. McCalla?

A. I think I have that. (Examining paper.) I have not [137] got it in quite that form here; I have got the revenue in Idaho.

Q. Of the whole state? A. Yes, sir.

Q. That is, the power that you furnished in the state? A. Yes, sir.

Q. How much is that, Mr. McCalla?

A. Well, the revenue in Idaho is \$280,371; I can give you that roughly; that is about 0.72 of a cent a kilowatt hour, the revenue derived from the power in Idaho.

Q. How does that compare with the amount of revenue that you got in the year 1910, Mr. McCalla, if you can give us that?

A. 244,588 in 1910.

Q. That is the total amount that you received from the State of Idaho. Now, what amount did

you receive from the power that you furnished in Spokane for 1909, Mr. McCalla?

A. In 1909 we received six-tenths of a cent for each kilowatt hour, for approximately eleven million; sixty-six thousand dollars; six-tenths of a cent is arrived at as being a figure which we sell it at our switchboard there to the Inland Empire Railway System and to the other street railway systems in Spokane.

Q. About \$66,000 for 1909?

A. Yes, sir.

Q. And what was the amount of revenue derived—

Mr. GRAY.—(Interrupting.) What is that?

A. \$66,000 of Washington revenue there on the amount.

Mr. WERNETTE.—Q. On the basis for this plant. How much for 1910?

A. 1910 a little over 12,000,000; \$73,445.

Q. Now, did you furnish any other power besides the power [138] furnished in Washington and Kootenai County and Shoshone County?

A. No, that was the amount for the total output of the plant.

Q. The total output of the plant?

A. Yes, sir.

Q. Now, those amounts that you have been giving here as the amount of revenue derived from the various places you have been delivering power, that was gross, the gross receipts?

A. Gross revenue, yes.

Mr. GRAY.—Hold on. Go ahead. I don't want

to interrupt you. You say gross receipts?

Mr. WERNETTE.—Yes.

Mr. GRAY.—And Mr. McCalla said gross revenue. I thought there might be some difference between them.

Mr. WERNETTE.—Q. Is there any difference Mr. McCalla?

A. None that I know of, from the sale of power. That is the total receipts from the sale of power, from the operation of the plant.

Q. Now, in 1909, what were the net receipts, if you know, Mr. McCalla?

A. Net receipts, net revenue?

Q. Yes, sir.

A. \$113,537.

Q. Now, what did you figure in deducting from the gross receipts, arriving at your \$113,000, Mr. McCalla, the various items if you can give us that?

A. I can't give you the various items, all of them.

Q. Just give some of them, Mr. McCalla, so the stenographers can get them.

A. In 1909 the expenses in connection with operating the [139] plant were \$185,051.

Q. Now, what do you mean by expenses of operating the plant, what does that include, Mr. McCalla?

A. That includes the total operating and maintenance expense of the plant, exclusive of general management.

Q. That is, in hiring men; just the running expenses?

A. Yes, sir; the maintenance; to that we have

added here an item for General Management of a thousand dollars a month; \$12,000 a year; making a total of \$113,537.

Q. I would like to get at that a little more in detail, if I possibly could, in regard, you say, to running expenses and maintenance. Just state what in particular that relates to.

A. That would cover all of the expenses incidental to operating a plant of that character; there are a multitude of details, which I have not got here; I would have to bring up all the books to get them.

Q. Just mention a few; see what your idea of what that is, and that is all I want to get at; if there is a multitude mention several of them at least.

A. There is the labor, maintenance of machinery, maintenance of buildings, oil and waste and such.

Q. Now, how many men did you employ at the plant during 1909 in Post Falls that were there regularly, if you remember, and if you can't remember the exact number of men, about how many?

A. Well, the regular operators, of course; we have ten men I think regular operators; and then we have a good many more additional men there working on maintenance.

Comr. FLEMMING.—I want to ask one question. In estimating the cost of operating the plant, the value that you gave [140] there is a ten per cent loss in transmission. Do you charge that up too?

A. To deliver one hundred kilowatt hours, you have got to generate one hundred ten.

Mr. WERNETTE.—Q. In the cost of operating and *this incidentals*, you don't charge up the ten

per cent loss on that, do you or not?

A. You have got to; you generate one hundred ten; you sell one hundred.

Mr. GRAY.—Q. Do you charge that loss of ten per cent up as a part of your operating expenses?

A. Oh, no.

Comr. FLEMMING.—That is what I was trying to get at.

Mr. GRAY.—Q. You only figured that on the question of revenues on the other side of the sheet?

A. No, that does not enter into the operating expense.

Mr. WERNETTE.—Q. In figuring the cost of maintenance and operating expense, do you include cost of litigation and attorneys' fees and things of that kind, Mr. McCalla?

A. A proportionate part, yes, sir.

Q. A proportionate part?

A. A proportionate part is directly chargeable to the plant; it is a part of the expense, the same as maintenance.

Q. Did you figure in the cost of litigation and attorneys' fees and things of that nature, outside of just what was necessary in connection with the plant there; or also the litigation that was carried on here against the settlers?

A. That would be a capital expenditure; that would not be included in this.

Q. It would not be included in that? [141]

A. No.

Mr. GRAY.—This is not a formal hearing. I think I can assist you. That attorneys' expense

and all comes within the \$1000 a month too.

The WITNESS.—That comes within the general management.

Mr. GRAY.—No charge is made there of \$1,000 to cover anything, law suits or attorney fees, or anything else. In other words, it is not charged, Mr. McCalla, to part of the operating expense that you mentioned? A. No.

Mr. WERNETTE.—Q. That is what I was trying to get at. Now what was your net receipts or revenue in the year 1910, Mr. McCalla?

A. The net revenue in 1910 was \$160,014.69.

Q. And what was the cost of your operating expenses and maintenance fees during that year, if it is not too much trouble to figure that out?

A. I am taking the expense, less management, at \$181,801.31.

Q. That was added to \$12,000?

A. For general management expense.

Q. And the operating expense and maintenance fees were figured the same way as they were in the year 1909, were they, Mr. McCalla?

A. Yes, sir; the same way.

Q. Now, is there anything else that was deducted from net revenues, which would indicate the gross receipts or the net receipts of the plant?

A. No, sir.

By Comr. FLEMMING.—Q. Is the Idaho Department and the Spokane Washington Department under the same management?

A. Yes, sir. [142]

Q. Cover the same cost?

A. Yes, sir; they all come together.

By Mr. WERNETTE.—Q. What else have you been deducting from the net receipts, Mr. McCalla, and then take that certain amount that you get, after deducting such amount or amounts, that you capitalize at ten per cent in getting at your cash value? A. There is nothing else.

Q. There is nothing else? A. No.

Q. Now you say in 1909, if I remember correctly, about \$113,000 net? A. That is correct, \$113,537.

Q. Which capitalized at a certain amount, at ten per cent, would be how much?

A. We took the 1909 and 1910 and averaged it.

Q. How much would the revenue then in 1910 and 1909 amount to, adding the two together, the net revenue?

A. The average of the two years would be \$136,775.84; that is the average of the \$113,537 and \$160,014.69.

Q. That capitalized at ten per cent would be what amount? A. \$1,367,758.40.

Q. Now, what else have you subtracted from that amount when you arrived at the cash value, in placing it at eight hundred and some odd thousand dollars?

A. That figure deducted the valuations of the property in Shoshone County of \$135,000.

Mr. GRAY.—State why you deducted the value of the property in Shoshone County.

The WITNESS.—Because the earnings, this net revenue on [143] which this capitalization is

based covers the investment and the business in Shoshone County and in other parts of Kootenai County, exclusive of this property. So, therefore, from the total gross capitalization we have deducted the capitalization necessary to conduct that business in the other places.

Mr. GRAY.—May I ask one more question? Q. What did you say Shoshone was? A. \$135,000.

Q. Where did you get the figures for that?

A. That is the assessment, one hundred per cent valuation.

Q. They are assessing there at one hundred per cent, are they? A. I am told they are.

Mr. GRAY.—I wanted to make it clear as we went along. Go ahead with the other items.

Comr. FLEMMING.—Q. Are you filing an application for reduction of taxes in Shoshone County?

Mr. GRAY.—No, sir.

Mr. WERNETTE.—Q. Is there anything else that you deducted from the net receipts?

Mr. GRAY.—You mean from the capital?

Mr. WERNETTE.—From the capital.

A. The values in Kootenai County of the pole lines are deducted.

Q. How much is that? A. \$183,000.

Mr. GRAY.—I will explain that. That would be \$1,850, Mr. Wonnacott, assessed against it, but we cut the \$2,000 off because it was an error.

Mr. WERNETTE.—I understand that. That has been assessed [144] at that amount, has it, \$183,000?

A. \$183,000, yes, sir, plus the \$2,000 taken off.

Mr. WERNETTE.—Q. What else?

A. The right of way, \$4,800.

Q. For the pole line, you mean? A. Yes, sir.

Mr. GRAY.—Q. The assessed valuation in this county of that right of way?

A. Yes, sir; what I call the river lots; there is some land up the river from Post Falls that is referred to in the petition, \$21,905.

Mr. WERNETTE.—Q. You mean the lands that you have purchased there or obtained easements for overflow purposes?

A. No, this land we own outright.

Q. Oh, you own it outright?

A. Yes, sir; and \$180,000 covering the overflowed property along the lake and river.

Q. One hundred and how much? A. \$180,000.

Mr. GRAY.—I will say I am not absolutely sure that we have got the exact figure on that. Mr. Wannacott told us the amount he was going to assess it per acre, and we multiplied it by the number of acres. So it may be there is some little discrepancy between the \$180,000 and the actual figures, as he added it up himself, but we multiplied it by so many dollars per acre, that he said that he would assess that at; that is a total deduction of \$524,705.

Mr. WERNETTE.—Q. You understand then that you are assessed on the overflowed property on the lakes and the rivers at about \$180,000?

A. Yes, sir. [145]

Q. How much did you say the deductions were then, Mr. McCalla? A. 524,705.

Q. And that subtracted from the net amount,

would leave how much? A. \$843,053.40.

Q. Are you getting the same price for all the power that you furnish in the various places in the Coeur d'Alenes?

A. For the same class of service, we are getting the same price, yes, sir.

Q. Is not the ordinary customary price per horse-power about \$50? A. No, sir, thirty dollars.

Q. Thirty dollars? A. Yes, sir.

Q. Are you receiving more than \$30 from any corporation or any persons in the Coeur d'Alenes?

A. Yes; for instance, those customers who—a man pays \$30 a horse-power—which, by the way, is not \$30 per year; figured by the year; it is figured considerably less, but it is taken on an average of his monthly accounts, monthly consumption. For each dollar of revenue he is entitled then to 130 kilowatt hours. That means, in other words, that is what is technically known as his load factor is sixty per cent, and he pays an equivalent rate of thirty dollars per horse power a year. A load factor is the ratio of his average load to his maximum load, and that covers very largely the majority of the properties. For instance, figured on a twenty-four hour basis. That means a man has got to use his power sixty per cent of that time equal to the maximum capacity; has got to use the maximum load sixty per cent of the time. If he should use it greater than [146] that—which means, if he used it in excess of 130 kilowatt hours per dollar of revenue, he pays for the excess at the rate of one and one-eighth cents per kilowatt hour, 1.12, a little less than 1.1-8 cents. If he used

his peak load one hundred per cent of the time on the maximum, he would pay an average of fifty dollars, and then pays on his twelve monthly peaks, which averages a good deal lower, than his yearly peak, which we would have to furnish.

Q. It would be \$50 if he consumed the entire amount?

A. If he used his maximum every second of the year, he would pay fifty dollars; of course, that is an impossibility; none of them do that; they could not do that.

Q. There are some that pay more than \$30 per horse-power? A. Yes.

Q. What would you say was the average, Mr. McCalla, in the Coeur d'Alenes, for instance?

A. Well, that pays on the average monthly peaks, of course; that would be just giving a guess; I would say it would be about \$35, possibly a little less.

Q. It would be about \$35? A. Yes, sir.

Q. There are some companies up there that pay nearly \$50 up there, are there not?

A. Very few; I don't know of any that pay \$50.

Q. The way you have figured it here, though, as to the amount that you have received, have you been figuring the actual amount that you have received, or just the average that you would say that you would receive?

A. No, the figures that I gave you are the actual gross receipts. [147]

Q. The actual gross receipts?

A. Yes, sir, the actual revenue.

Q. The actual cash paid in?

A. No, it is the actual earnings; that does not take account of any bad debts. Of course, those are bound to happen in all communities, especially in a mining community.

Mr. GRAY.—That is the point I wanted to get at.

Mr. WERNETTE.—Q. Do you subtract, then, the bad debts from the gross receipts to get down to your net?

A. No; the earnings I have given you are the gross receipts as taken from the earning sheet.

Mr. GRAY.—Q. Whether collected or uncollected?

A. Whether collected or uncollected. We have each year to write off a certain amount of bad debts.

Mr. WERNETTE.—Q. Do you subtract the bad debts in getting down your net receipts?

A. No, they are not subtracted in the figures given you.

Mr. GRAY.—They are actually deducted, they should be deducted from your earnings, but in these figures they have not been.

A. They should be, but have not been.

Chairman MEYERS.—Q. What if every merchant and every business man in this town came in and showed us that he was not making ten per cent on the money that he had invested, we would have to be governed by that all the way through?

Mr. GRAY.—No, sir, but, Mr. Meyers, I think if you will permit me I can answer that better by reading to you something that the Public Service Commission of Wisconsin—which undoubtedly is one of the greatest known to the land, [148] it is very

short, and they explain that so well that I think it would not perhaps be a bad plan to call your attention to it. They can give the reason in so much better language—and these are men who are looking at it from a purely fair standpoint. (Reads extensively.)

Chairman MEYERS.—Q. How long has that plant down there lain idle at any one time from the time it started?

Mr. GRAY.—It has not lain idle at all.

The WITNESS.—A part of the machinery has been idle a large part of the time.

Mr. GRAY.—There is a time when we are generating more power than the consumers take, and when we have to have that power there for them, because we never know what moment they will be calling for it and demanding it at the same time. In other words, there are certain times in the day when the power is pulled on more and more power is taken out than at other times; and then the thing that Mr. McCalla called your attention to, in connection with the load factor, a man who uses power continuously during twenty-four hours, you can afford to sell it at a better price, considering the amount that he actually uses, than the man who only uses it for eight hours. You may fix the price per horse-power the same, but the man who buys the horse-power and uses it only eight hours, of course does not get as many kilowatt hours as the man who uses it twenty-four, but you have got to have it there to deliver it to him.

Now, the Public Service Commission of Wisconsin—I am not going to burden you with reading it,

but I will furnish you with the opinion, if you like. They say that the reasonable rule in fixing the valuation upon the property of public service corporations is that, that you should consider the [149] place where the plant is situated and what the ordinary value of money is there (in securities, such as mortgages and things of that kind), and then for the hazard of the business he should be entitled to from one and a half to two and one-half per cent in addition to what he could get if he loaned his money upon a mortgage, because a mortgage is something where there is no hazard, where properly loaned. I simply call your attention to that to show you the reasons that have been advanced and adopted (and which undoubtedly will be allowed here some day) which fixes the valuation of a property such as this upon its earnings. It could not apply to the merchant, for this reason, Mr. Myers: Suppose the merchant has a stock of merchandise, of three or four thousand dollars, and then turns it over three or four times a year, you could not assess him at the twelve or sixteen thousand dollars. I just call your attention to that; that is the reason of that rule.

By Mr. WERNETTE.—Q. Now, can you give us the approximate—you say you can't give us the exact—cost of putting in the several dams there. Can you give us the approximate cost of putting in the dam in the north channel?

A. No, sir; I could not give you that from memory, because it is simply a wild guess.

Q. Well, you know what the cost of putting in all three are? A. Yes, sir.

Q. And you say you were Superintendent there at the time when the dams were put in; you have some sort of an idea?

A. I would not want to venture a guess on that; that would be simply a wild guess and of no particular value. That is [150] five years ago; I would not attempt to carry all of those things in my head.

Q. Could you, by looking at your books?

A. I can go back over the same records, yes, and give you it approximately.

Q. Do you know how much you paid out in the way of making excavations there for blasting?

A. No, sir; I could not tell you.

Q. Could you find that out by looking over your books?

A. No, I don't think we kept those records in quite that shape.

Q. You don't know, then? A. No, sir.

Q. There is no way of getting at it, as to what the cost of excavation was?

A. Only by approximating it; no way of actually getting at it.

Q. The only thing you fix it by then was just to get the entire cost? A. Yes, sir.

Q. And it was not separated out into the various amounts? A. No, sir.

Q. Can you give us the cost of the machinery in the plant at Post Falls?

A. Yes, in the same way that I gave you the others. The machinery is \$313,236.

Q. Now, what does that include?

Mr. GRAY.—Wait a minute. That was on the

second Monday of January? A. Yes, sir. [151]

Mr. WERNETTE.—Q. And what depreciation did you figure?

A. That is figured on the machinery at five per cent for four years.

By Mr. GRAY.—Q. Do you consider that a very low rate?

A. I think that was a very conservative figure on the machinery; it is a low figure. The depreciation there, especially in electrical hydraulic machinery, takes into account the matter of the machinery becoming obsolete; obsolescence is a part of depreciation, and that obsolescence will be on machinery, in an industry which is progressing the way the electrical industry is, very great. In other words, we have thrown out apparatus which was in first class operating condition simply from the fact it was obsolete, we could not afford to operate it; it has to be thrown away, and the expense of that was just as much as though the thing had worn out or burned out. I think that is a low figure.

Mr. WERNETTE.—Q. That was thrown out, Mr. McCalla, wasn't it? Replaced by other machinery which was better than the original which was put in?

A. There would be just the same amount of money necessary to spend on it, whether it was burned up in smoke or dropped into the river; that is the general way it is considered by all of the state commissioners that have charge of such matters; it is a well established rule.

Q. What is that railroad being used for now down there, Mr. McCalla?

A. For nothing, sir; the railroad was built—

Q. (Interrupting.) It is a private road, is it not; that is a private spur that was put in there by The Washington Water Power Company? [152]

A. The railroad was built for one object, and one only, and that is for transporting the machinery to the building. The rails and the steel, all of the steel and fastenings are the property of the Northern Pacific Railroad Company, and they have recently asked us to repair that spur, that they would not operate over it, and we have declined to do it, for the reason that we have no further use for it, and they said they would take out the spur, and we have advised them in writing to go ahead with it. We are unwilling to spend any money on that spur, for the reason that we have no further use for it.

Q. The road was used mostly in getting the machinery in there, was it not? A. Yes, sir.

Q. That machinery in there becomes obsolete quite rapidly does it not? A. Yes, sir.

Q. And it is almost necessary that you have a railroad spur in there to move the machinery in there whenever you do want to take the machinery in, is not that true?

A. No, if brought in there a piece at a time it would be much cheaper to haul it by teams on the road.

Q. There is some machinery in there that you can't haul with teams, or it is next to impossible to haul it with teams, is there not?

A. In our Little Falls plant we hauled every piece of machinery, in fact everything that went in it by

wagon road fifteen miles.

Q. The same sort of machinery that you have there? A. The same, only much heavier.

Q. It is much more costly to handle it with teams than it [153] is by having railroad facilities so it can be taken there, is it not?

A. Well, if we had figured that way we would have built a railroad to Little Falls; we figured it was cheaper to haul it in by wagon; that was after we had built the Post Falls plant.

Q. How long have you had that railroad in there?

A. That was built in 1906-1905.

Q. Paid taxes on it ever since? A. Yes, sir.

Q. Have you sent in an affidavit to the State Board of Equalization on or before the middle of August, or second Monday in August as to that railroad prior to this time? A. I could not tell you.

Mr. GRAY.—We don't claim that we ever have, Mr. Wernette.

Mr. WERNETTE.—Q. You have always considered it a private property, have you not, Mr. McCalla?

A. The roadbed belongs to us; the steel belongs to the Northern Pacific.

Q. You exercised control of it, did you not?

A. No, the Northern Pacific have used it for shipping ties over it; we did the grading.

Q. If you had said "No" to the Northern Pacific, then they would not have had any right to go over it, is not that true?

A. No, I don't believe it is true.

By Chairman MEYERS.—Q. If any other indi-

vidual wanted to ship over that spur would not they have to get the right from you instead of the Northern Pacific?

A. No, by going on the county road and loading they would not.

Q. Your spur is what I am alluding to. [154]

A. No, I think if they had intended to ship over it they would have shipped.

Q. Suppose I was down there and had some little factory and was on that spur. I would have to get permission from you to set those cars in there to ship them out, would I not?

A. That is a pretty nice legal point; I don't know; I am not much of a lawyer. I don't believe you would, unless you were on our land.

Chairman MEYERS.—I would be trespassing as soon as I got on your right of way, and if the manager came to me and told me to stop I would have to do it.

Mr. GRAY.—We have abandoned it and it has no value to us or anybody else in excess of the amount of the value of the steel; we would be glad to get that money for it.

By Mr. WERNETTE.—Q. Did you furnish a list to the County Assessor this year of property?

A. I think we did.

Mr. GRAY.—I did.

Mr. WERNETTE.—Q. Did you include the railroad spur?

Mr. GRAY.—I would not be suprised if I did.

The WITNESS.—I might say in connection with that, that this matter of that railroad spur was

brought to our attention by demand of Northern Pacific Railway Company finally that repairs be made and that demand occurred in the last month or two, and that called our attention to it, and we decided that we were simply throwing away the money by making any repairs.

Q. You considered then that the railroad is worth nothing at all to you folks?

A. Yes, I don't think it is worth anything. [155]

Q. You had two large cranes constructed, Mr. McCalla, to unload machinery from the cars. What are you going to do with these?

A. Those are used for maintaining the machinery, for making examinations and repairs.

Q. You have them constructed in such a way that they are permanent, are they not?

A. Yes, a part of the power station.

Q. And in such a way that they are constructed for the purpose of taking machinery from the cars, are they not?

A. Or from a wagon. We had the same thing at Little Falls where we pushed the wagon up under the crane and took the machinery up on it.

Q. They were figured up as a part of the cost of the machinery of the plant, were they not, the cranes?

A. Yes, sir.

Q. And would the bear-trap and the gates or the dam be figured in as part of the dam itself, or would you figure that in as part of the machinery?

A. That is a part of the dam.

Q. Part of the dam?

A. Integral part of the dam.

Mr. WONNACOTT.—Q. Do you consider the dam there at the power-house, do you consider that in the cost of construction, or does that go into the cost of that building?

A. The cost of that dam is included in figures I gave this morning as a part of the dams; I will call it whichever way you like, it is regarded as a power station, but it is not so included in our figures.

Q. You figure that as a dam? [156]

A. The power-house sets right on top of that; that is the way we considered that in our accounts.

Q. Do you consider that excavation there in the cost of the dam separate, the excavation as a part of the power station?

A. The excavation is a part of the dam, yes, sir; the excavation for the dam is a part of the dam.

Q. I mean the excavation right where the power-house sets; the power-house sets about fifty feet below; was that part of the dam, or is that part of the buildings?

A. The excavation for the power station would be taken as a part of the power station; that for the dam would be a part of the dam. The dam extends though down, the toe of the dam—

Chairman MYERS.—The heading says, “building and excavation.”

Mr. WONNACOTT.—There was a good deal of excavation done last year along in the river between the power station, and straightening the channel. I included that in part of the assessment there. Do you know what that figured up? That was done since that power-house was built there?

A. Yes, sir.

Q. The straightening of that channel?

A. Yes, sir.

Mr. WONNACOTT.—I put in an estimate there of \$35,000 for work done last year.

The WITNESS.—That was in those figures, I could not tell you now just which, but it is in; that is a parallel case of that to the construction plant. Now, the construction plant is the contractor's equipment, you might say; it is used in construction of the different parts of the development, [157] and would be pro rated. Now, this may be done, the same thing.

Q. The work done in the channel of the river, the improvements made in the river, on both sides?

A. Yes, sir; I know what you mean.

Q. A great deal of rock blasted out there and worked there; they closed down a long while, I forget now, I can't remember the cubic yards or feet I figured up was taken out of there.

The WITNESS.—How did you figure that?

Mr. WONNACOTT.—I made a kind of an estimate of it.

The WITNESS.—Did you take soundings? How did you get the amount?

Mr. WONNACOTT.—Depth?

The WITNESS.—How did you know what the original depth was?

Mr. WONNACOTT.—I made just a rough estimate of it.

The WITNESS.—Did you get under the water?

Mr. WONNACOTT.—No, did not get under the

water. How much of that was done last year, that is included in that proposition?

A. Yes, sir, it is all included, whatever it was; I can't give you the exact amount.

Mr. WONNACOTT.—There was an awful lot of work done there last year?

The WITNESS.—Yes, sir.

Comr. FLEMMING.—In these figures you have given here, the figures of ten per cent returned on the investment, now does that include ten per cent on the amount that you have just stated here, or is it ten per cent on your first and original investment?

A. Ten per cent on the amount stated here.

Mr. GRAY.—As a matter of fact, the plant don't pay anything [158] like ten per cent on the actual investment?

The WITNESS.—No, it does not.

By Mr. WERNETTE.—Q. What was the original cost of the plant down there, buying the land and the falls, do you remember?

A. The land?

Q. When you first got the site down there; you got it from Mr. Post?

A. I think it was about \$69,000.

Q. \$69,000? A. Yes, sir.

Q. That included just the falls and how much land?

A. There was some two hundred seventy acres, as I recall it.

Q. Two hundred seventy acres. Now, how much did you pay Mr. Strathern for the land and the power that he had there, do you remember, Mr. McCalla?

A. We paid Strathern as I recall it for moving his mill; I don't think we paid him anything for the land, although I am not dead sure of that; but it is in that figure; it is included; whatever was paid was in that figure of \$69,000.

Q. That is included in the \$69,000?

A. Yes, sir.

Q. Is it not a fact that Mr. Strathern gets a certain number of horse-power every year?

A. Yes, that is a fact.

Q. And he gets that without paying for it?

A. Yes.

Q. As the original consideration for his right there?

A. Yes, sir; his mill occupied a property which was absolutely necessary for the development in that channel, the [159] north channel, and he had a certain amount of water-power, a certain number of horse-power, and it was necessary for us to get him out of there in order to have sufficient room to make the development.

Q. How many horse-power do you furnish Mr. Strathern that you are not being paid for, that is, figured into the original consideration?

A. My recollection is now it is 187 horse-power. I am not dead sure of those figures, because I don't attempt to carry it in my head.

Q. About that? A. Yes, sir.

Q. Then, Mr. Martin, also had certain rights there that were bought? A. Yes, sir.

Q. Or Mrs. Martin. When did you buy those?

A. We made the same sort of a deal with them

that we made with Strathern. We exchanged them electric power for their other power.

Q. How do you figure that, Mr. McCalla, in getting at the \$69,000, what you are furnishing power every year to those parties?

A. The \$69,000 is the actual cash.

Q. Actual cash? A. Actual money paid.

Q. Are these perpetual rights?

A. Yes, their rights were perpetual. We simply traded electrical for water-power.

Mr. GRAY.—In other words, Mr. Wernette, our claim is that whatever the value of that land was, it was agreed upon between the parties, and that power was turned over to them [160] as the consideration for the land.

Mr. WERNETTE.—Q. Then, as a matter of fact, the site in fact that you have down there cost more than \$69,000?

Mr. GRAY.—Yes, but we are not getting the benefit; the other men are the owners of the power that was agreed upon that land was worth.

By Comr. FLEMMING.—Q. Are they supposed to pay the taxes on that property, or under your contract do you pay the taxes on the property?

A. It is their property.

Q. Their property; no agreement that you should?

A. No.

Mr. GRAY.—I would not want to be sure about that.

Mr. WERNETTE.—The Washington Water Power Company owns the land and the water rights that go with it; the deeds are here; they are right in

there; on that statement there.

The WITNESS.—We own the water-power and they own the electric power.

Mr. WONNACOTT.—You own the land and the water-power that Mr. Strathern had?

A. Yes, sir.

Q. You bought it, it was transferred to you formally; we have to look to you for the taxes on it?

A. On the land; yes, sir.

Q. On the Strathern land?

A. Not on his power.

Q. No, we assessed the property that Strathern sold; I have got it assessed separately to you?

A. Yes, sir.

Mr. GRAY.—The point I make in that connection, take the assessment of that land down there; to separate that small [161] piece and the small grist-mill piece from the Post track, it is *absolute* impossible for any man in the world to do it on any kind of basis that you can justify on any reason. In other words, it is all one piece of land. Now, the Strathern and Martin pieces and the piece that grist-mill was situated on are comparatively very small, that is, compared with the balance of the land, and they are just like a man owned half of a quarter of an acre there; they are necessary to the development, and we think the land should all be assessed as one piece of land. With reference to the Martin and the Strathern property, we have always considered that we paid actually more than that particular land was worth when we agreed in perpetuity to deliver to them approximately 300 horse-power; but it was

like a railroad that has all of its right of way bought except one piece; you have got to pay what the fellow wants.

Mr. WONNACOTT.—The grist-mill you have always separated and turned that in as a separate piece of property.

Mr. GRAY.—The fact that we have turned it in on these lists to the men that fill out the lists, to the Assessor, is not of consequence; I suppose it has not been done scientifically as we ought to have done it. That grist-mill itself, of course, has depreciated and is not of very much value; the land was, however, absolutely necessary to the development of the water-power; that is, there was continual friction between the grist-mill owner and the water-power owner, and these other pieces were purchased at high valuations, as we always maintained, more than the land was worth, but it was necessary, and if it was to be apportioned relatively with the best land, it would not have been worth but a few hundred dollars. [162]

Comr. MEYERS.—I would like to ask a question. In figuring up the kilowatts and horse-power, did you figure that in the original bill, or whom do you look to for the taxes on that power of Strathern and the other?

Mr. GRAY.—We included—of course, I don't pretend to say to whom you must look to, as far as Mr. Strathern and Mr. Martin are concerned. As far as we are concerned, you don't certainly look to us to pay their taxes, unless there is some stipulation in the deed, which I am not informed about.

Mr. McCALLA.—There is no such stipulation.

Mr. GRAY.—But that power that we have figured in there includes both the Strathern and Martin amounts. That was included in with it as showing what the capacity of the plant was.

Chairman MEYERS.—That is what I wanted to know.

Mr. GRAY.—The fact is, we didn't cut out little things like that, and put it down in that way; it amounts to a very small sum, when it comes to figuring earnings; we figured in our revenue the total output of that plant, including the Martin and the Strathern power. So that when you have looked over those figures which Mr. McCalla has given you of the kilowatt hours that are put out there and the value of them, it includes the Strathern and the Martin power. We have simply presented those figures for the purpose of showing the entire output of the plant, and we submit to you that that is the fair way of getting at the value; we are not deducting anything; in fact we are not deducting the bad bills in 1909. I have one bill in my hands of \$11,000, which is absolutely not collectible; it is against a prospecting company up in the Coeur d'Alenes, and they did not make the mine they expected, but we have not taken anything [163] of that kind; we are telling you what the plant itself cost.

Mr. WERNETTE.—Q. Do you know who were the first constructors down there to open up those channels?

A. Bennett and Bieler.

Q. Do you know what their contract called for,

the consideration? A. No, sir.

Q. Could you give us that by looking up the records? A. Yes, sir.

Q. Do you know whether they completed that work? A. They did not.

Q. Who took it up after they quit?

A. The company handled it.

Q. The company handled it itself?

A. Yes, sir.

Q. Will you be willing to send us whatever that consideration was?

A. Yes, sir; part of that consideration was—I think it was a material part too—was by way of settlement to get them out. They fell down on their contract, and yet they were within their technical rights there, and they were falling down so badly that in order to get the plant completed and get it developed before high water, to keep them from knocking us out for a year, we paid them money to get them out; they made more money by the abandonment of their contract than by completing it.

Q. Did they get more than what the contract actually called for then? A. Yes, sir. [164]

Q. How much more?

A. I can't remember; it is five years ago.

Q. Could you furnish that, what they actually did get? A. I could if we have it, glad to.

Mr. GRAY.—Q. In other words, you can figure what they were entitled to under the estimates, and what was paid them in settlement? A. Yes, sir.

Mr. GRAY.—The figures you have given already; you have included all of the total cost, including

everything that was paid out in connection with it?

A. Yes, sir.

By Mr. WONNACOTT.—Q. That figured in what those contractors got? A. Yes, sir.

Mr. GRAY.—Q. That is the only way you carried it on your books, is it not?

A. That is the only way.

Mr. WERNETTE.—Why not take it from your overflowed land?

Mr. GRAY.—We make no objection to that.

Mr. WERNETTE.—The power line?

Mr. GRAY.—We make no objection to that except the twenty-three instead of twenty-five, and on this assessment on the river, we thought the assessment was pretty high, but made no objection to that and to those buildings, that we left in, we made no objection to that; it is only on the plant itself. I put in figuring these overflowed lands, we did not get your exact figures on them, but approximately \$180,000.

Mr. WONNACOTT.—I don't remember.

Mr. GRAY.—You said you were going to assess them \$25 an [165] acre.

Mr. WONNACOTT.—We left out the small fractions of acres.

Comr. FLEMMING.—I move that we adjourn until 2 o'clock *this is* for this hearing.

The Chairman put the motion to vote and declared it carried. [166]

Hearing resumed at 2 o'clock P. M., July 17th, 1911, at the same place.

Present: All the Commissioners, and the same at-

torneys as before, and Assessor Wannacott.

C. S. McCALLA, examination resumed.

(By Mr. WERNETTE.)

Q. Mr. McCalla, you stated that at the time when you purchased that plant you paid \$69,000 for it—not the plant, but the property, the falls?

A. Yes.

Q. The site. What do you consider that site worth, figuring for instance, you had the site at the present time, with the opportunity of having the power plant there, the same as you have, and the demand for electricity the same as it is?

Mr. GRAY.—May I suggest one thing? Mr. McCalla, of course, did not include within that the horse-power for Martin and the grist-mill.

Mr. WERNETTE.—I understand; I will get at that.

A. I think for the raw power that was a very liberal price for it.

Q. At that time, you say? A. Yes, sir.

Q. Well, what would you consider it worth now?

A. I don't think it has appreciated any.

Q. You don't think it has? A. No.

Q. Do you think it has increased any in value?

A. I say I don't think it has appreciated any.

Q. You think the site as a site has increased in value? [167]

A. I say I don't think it has appreciated any.

Q. You don't think it has? A. No.

Q. In other words, you do not consider the site would be worth more than \$69,000, including the Strathern property and the Martin property?

A. No, I should think that was a reasonable price for it. The value of the raw power is not large; it is not what a good many people think it is; it is a small part of the real cost of the development of the power.

Q. The value of a power site is figured entirely, figured mostly, on the demand for electricity and the opportunity of obtaining coal and things of that nature, is it not?

A. Well, there are a good many items which go to make up the value of a raw power.

Q. Those are some of the principal things, are they not, Mr. McCalla, the fact as to whether or not you are going to have a market for your power?

A. That is one consideration; there are different things—with respect to the ease of development, cheapness of development; there would be its location; another would be the nearness to an important market. For instance, the power in the heart of a big city would be worth a good deal more than power out in some wild mountain country.

Q. Then the cost of coal, the cost of fuel would have to be taken into consideration?

A. The cost of coal, and the cost of other water-power which would be available.

Q. In the same locality?

A. The same locality would affect it.

Q. The demand for electricity has been increasing steadily, [168] has it not, Mr. McCalla?

A. Well, it did for a while; it is not increasing now; it is very little.

Q. But it has been increasing some?

A. Decreased in some quarters; at the present

time business is pretty flat. I think 1910 will be the best year that we will have for some time, for some few years, from the looks of things at the present time.

Q. Are there any good power sites in a locality here that could interfere with the rights of The Washington Water Power Company, that could generate power and sell it, in competition with The Washington Water Power Company, within a distance that would make it practicable, that you know of?

A. Well, the Government reports say that the total amount of power available in this district, this vicinity, that the amount developed is a ridiculously small proportion of the whole; that is the Government report.

Q. Well, by "in this vicinity" you mean right here?

A. I mean taken within the Inland Empire, that is.

Q. Within a radius of how many miles, would you say?

A. I would say 150 miles; within the commercial limits of transmission, in the present state of the art.

Q. By means of the dam at Post Falls you are able to make a reservoir or storage basin of the Coeur d'Alene Lake and St. Joe and St. Maries and Coeur d'Alene River, are you not, by means of your bear-trap dam gates at Post Falls?

A. Together with this \$180,000 worth of land.

Q. Yes, you might put that in too, if you want to;

you are capable of doing that?

A. Well, I don't know whether we are or not.

Q. You have been doing it in the past, have you not? [169]

A. Yes. That depends a good deal on the Government decision of course.

Q. Now, the amount of water that you have in Lake Coeur d'Alene and the rivers that I have just mentioned, to a great extent affects the power plants which you have further down the river, does it not?

Mr. GRAY.—I object to that; that has got nothing to do with these.

Chairman MEYERS.—That is the point we want before this Board; that is what we are figuring on.

Mr. GRAY.—You are not attempting to tax The Water Power over in the State of Washington, are you?

Mr. WERNETTE.—No, not at all; but if this plant is the means of generating thousands and thousands of horse-power in another plant, this plant is worth that much more, is it not?

Mr. GRAY.—No, it is not.

Mr. WERNETTE.—You may not think so; other people might.

The WITNESS.—But such result is purely incidental; it is certainly a benefit. For instance, the city of Spokane derives a benefit from that; that certainly is not taxable to The Washington Water Power Company.

Mr. WERNETTE.—Q. I am not asking you that question; I am asking you whether or not it is not the fact that because you have the gates and the

dams here at Post Falls that you are able to hold water which benefits your plants at Spokane and further down the river?

Mr. GRAY.—I resist any further such inquiry as that, because that is all assessed, every horse-power that we have in the State of Washington is assessed there.

Chairman MEYERS.—Is it not a fact, Mr. Gray, there is [170] no other site in the State of Washington to reservoir this water at to help Spokane out than this?

Mr. GRAY.—They have just as good if not a better one.

Chairman MEYERS.—Down below Spokane?

Mr. GRAY.—Down below Spokane. They could bring the power back there just as well.

Chairman MEYERS.—Maybe you can. I don't know where you would have such a great basin. Where would you find such a great basin as this?

Mr. GRAY.—Another one just as large.

Chairman MEYERS.—It is a good ways from Spokane.

The WITNESS.—Closer to Spokane than this one is.

Mr. GRAY.—The point I wish to impress upon you is this. In Washington they have a Public Service Commission, which fixes the value upon all the water power there, on which it is taxed, and on which the rates are based, and that is the same thing that ultimately will occur here. The proposition of competition in that business absolutely is an immaterial matter; the rates are not going to be based,

and never will again be based on competition in water-power, because the Government and the States are going to control them. I don't think if, as a matter of fact, by the development of this power there is some incidental benefit to other powers down in Washington, that you can tax The Washington Water Power Company up here for them; some of them they owned, and some of them they own now and did not own at the time this dam was constructed, and only one of them they owned at the time this plant was constructed; it was designed solely for the development of that one water-power there, without any reference to any other. [171]

Mr. POTTS.—Don't you consider that would add to the value of this plant as a whole, if it was capable of furnishing more power?

Mr. GRAY.—For taxation purposes, I don't think so. In other words, you can't say The Washington Water Power Company shall make all your profits in Washington, when you tax them on this plant more than it is worth, more than what it will make for you, when you would not make a cent of money in Idaho, and that this incidental benefit that we get is all the profit that we can have.

The WITNESS.—The effect of that is already taken account of in Idaho, in so far as the plant itself is concerned, because if it were not taken in there would have been much less machinery put in, and the valuation would have been that much reduced.

Chairman MEYERS.—I believe Kootenai County would not object to that being taken up, that site,

and moved down until you got as good a reservoir, moved on down below. I believe they would be perfectly satisfied.

The WITNESS.—It would be rather a difficult thing, would it not? We have often wished we could do that, I will tell you that.

Mr. GRAY.—If we had our investment out of the State of Idaho, we would be very glad to do it.

Mr. POTTS.—The reason you cannot move it is the reason that you can't afford to dispense with this basin, this reservoir.

Chairman MEYERS.—That is it.

The WITNESS.—No, it is a physical question.

Mr. HEITMAN.—You cannot move the falls.

[172]

Mr. GRAY.—If that power was to be developed again, it would lay there forever, for a great many years, if it was going to cost as much money as that has already before it would be developed.

The WITNESS.—No doubt about that at all.

Mr. GRAY.—It is not paying a reasonable interest on what it actually cost.

Chairman MEYERS.—I struck Spokane twenty-six years ago, and there are times in the summer there when they did not have half of the plant that you have got today, that you could not hardly produce the electricity, but by making a reservoir here, you are able now to run your Spokane plant all summer.

Mr. GRAY.—We have increased the flow about 500 cubic feet.

The WITNESS.—We did not have a million

dollars in a steam-plant in Spokane then either.

Chairman MEYERS.—No, I came there twenty-six years ago, and I know there are times in the summer that water went very low in Spokane.

Mr. GRAY.—That is during some summers, and some summers it don't get so low.

Chairman MEYERS.—No, I am speaking generally.

Mr. GRAY.—The power of the river in Spokane is not increased—well, Mr. McCalla will tell you; it is not increased a quarter. The point I make is this, gentleman, that you cannot say, now that dam that is down there, that there is more water flowing down the Spokane River, and therefore for every foot of water additional that flows down there in the summer time we are going to tax you. [173] You can tax that land to what it is worth; you can tax this overflowed land for what it is worth, and you can tax that plant for what it is worth, but it would not be held for a minute, if there was a public service commissioned in this State, that powers *the* already owned or that they might acquire in the future in Washington—the taxes on which are absolutely controlled by the earnings—is to be taken into consideration, and those earnings reduced in Idaho, because they have that power in Washington.

Mr. POTTS.—The only point is this, that any benefit which this plant affords to you probably in the State of Washington or elsewhere adds to the value of your property here in Idaho. It is an item to be considered in determining its value.

The WITNESS.—It does not affect the cost of the earnings.

Mr. POTTS.—It affects its value.

Chairman MEYERS.—It affects its value; that is what we are assessing on.

Mr. GRAY.—It does not affect the value of the water-power in Washington; we are permitted to earn so much on what the thing cost us, and we are taxed on what they are worth.

Chairman MEYERS.—Is it not a fact if Washington did not have that down there, that you would not need to have quite so much of a lake up here?

Mr. GRAY.—No; inquire of Mr. McCalla concerning that, and he will tell you they never considered a single power in Washington in the construction of this plant; gave no thought to it, and it was not a factor that had anything [174] to do with it.

The WITNESS.—We did not have any other outside of that plant in Spokane.

Mr. WERNETTE.—Suppose for the sake of the argument, conceding that to be true, is it not a fact that because you have this reservoir here and can gauge your water as you want it, that it increases the value of your plant, because you have another plant below?

Mr. GRAY.—No, not the value to us; the value of our investment is based solely on what we can make, and if we are permitted to make a reasonable return on our money, that is all we ask over here or in Washington; we don't want anything more than a fair return upon it, but we are entitled to that.

Chairman MEYERS.—You don't pretend to say that that plant is not larger now than it was twenty-six years ago?

Mr. GRAY.—The Spokane plant?

Chairman MEYERS.—Yes.

Mr. GRAY.—I presume it is; I don't know.

Chairman MEYERS.—At that time they said their water was low. I had lights here in the building, and we wanted to know why the lights were so low; they said they did not have power enough.

The WITNESS.—That would depend on the amount of your load.

Mr. GRAY.—Q. Equipment and machinery?

A. Yes, sir.

Mr. GRAY.—Electric lighting has advanced in twenty-six years. [175]

The WITNESS.—Twenty years ago there was no electric light practically in Spokane.

Mr. GRAY.—Assuming our property in Washington is worth so much money, they say to us there: You can make seven or eight or nine or ten or whatever per cent the law will permit you, you shall make such a per cent upon your investment; for taxation purposes it shall be fixed at the same value it is for rate-making purposes, and your taxes are taken off your income, as one of the fixed charges of the business. Now, then, just assuming for illustration that we made one hundred thousand dollars under such rules and regulations as that, if you gentlemen up here in Idaho are going to attempt to tax it also, because of the fact that we are able to generate power down there, based upon the same

rate-making schedules and same taxed schedules, we cannot make as big a per cent, or the same return on capital; we can't pay the same return that a public service commission says is fair on our capital here; and it simply means that the only other way that you could do would be to raise the rates and charge more over here than we do there.

Chairman MEYERS.—I have one house here in town that has been rented steadily for two years; the last four months there has been no one in it, but my taxes are higher this year than last. Is that right, for me to come before this board and say that because I have not rented that house for four months, that I ought not to pay the tax this year that I did last year? [176]

Mr. GRAY.—Of course not.

Chairman MEYERS.—Your argument to start out is that you want to make ten per cent on the money invested.

Mr. GRAY.—No, we did not say that.

Chairman MEYERS.—That is what you said right here, that you only asked to make about ten per cent on the investment.

Mr. GRAY.—That I do say now. I didn't understand your other question. We only want a fair return, that is all. Now, if we are permitted to make that return, I don't think any of you gentlemen would put your money into it if you were not going to get that or more; you would not go and buy stock in it if you were not going to make more than that.

Mr. WERNETTE.—I don't know about that; I

don't agree with you there.

Mr. GRAY.—I will give you an instance. There is not a railroad running in this county to-day, unless it is the Great Transcontinental Railroads, that is making a dollar, or that has paid a dividend for a number of years. I happen to have a little stock in one of them, the Washington & Idaho Northern; it has never paid a dividend.

Mr. HEITMAN.—The Inland has not paid a dividend recently?

Mr. GRAY.—The Inland has not paid a dividend for several years. Those are all things that tend to show the value of a piece of property, and we are not going to put that money into enterprises that we are not getting any returns from. [177]

Mr. WERNETTE.—The Inland people are taking all of the money that they have been making and putting it into other roads; they have been making thousands of dollars. What about that?

Mr. GRAY.—I beg your pardon.

Chairman MEYERS.—We are not liable for that, if they have not made a dividend; they would have made a dividend if they had not bought other roads.

The WITNESS.—It is a part of the business.

Mr. GRAY.—It is one of the things that you are getting when you are owning a railroad.

Mr. HEITMAN.—It is one of the risks of the railroad business.

Mr. GRAY.—It is not all a bed of roses.

Chairman MEYERS.—What do you invest money in that you don't run a risk?

Mr. GRAY.—Farm mortgages.

Chairman MEYERS.—That is the only thing, farm mortgages.

Commissioner FLEMMING.—In speaking about the dividends buying railroads, I don't know if it is in point or not. If they confined their stocks to the cost of maintenance and construction and had not watered their stock, the case would be different.

Mr. GRAY.—The Idaho & Washington Northern has no water in it; it is real money.

Mr. HEITMAN.—No water in it.

Mr. GRAY.—But that shows that these things are not easy of solution; it is true that there is a good deal of risk connected with it. As I say, every bit of water [178] power that we have in the State of Washington is taxed at so much, and our rates are based upon the valuation that is placed on it for the same purpose, and we are allowed to make a certain rate, and that is all, and that is all that is going to be here. You can't assess us and cut down our assessments down there or, on the other hand, force a higher valuation here for a power that is in Idaho.

Mr. WERNETTE.—Do you furnish the same amount of power in Spokane as if you would not have the falls here to make the dam, say at Post Falls, to make a storage basin of Coeur d'Alene Lake?

Mr. GRAY.—By the development of that other power.

Mr. WERNETTE.—By the development, but you have not now?

Mr. GRAY.—Undoubtedly adds to the value; it undoubtedly increases somewhat the flow of that

river during the summer time.

Mr. WERNETTE.—This plant, then, is worth that much more, because of the fact that you can control your water and furnish water in Spokane at a bigger flow.

Mr. GRAY.—The Inland Empire Company owns a dam in the Spokane River below Spokane; the flow of the river is increased on this. Are you going to increase their assessment by reason of the construction of this dam up here?

Mr. WERNETTE.—I have not assessed them; if I did I would, I believe.

Mr. GRAY.—I don't know how you would make that stick. Their dam is not here; they don't own this dam at Post Falls.

Chairman MEYERS.—Let me ask another question: Now, after that Post Falls dam, suppose some big irrigating [179] company would come and back that water up there down to what it would naturally flow without that dam, do you claim that you could keep that big power plant running in Spokane?

Mr. GRAY.—I claim we could not prevent a man from owning and diverting the water. We don't own it; we use it there and it runs away, and you, or any of these other gentlemen can go and appropriate it and take it out of the river, and that shows that you are attempting to assess us on something that is running there wild, and that any man can go and locate and own and take it away. We don't own it; it is a benefit for any man who happens to be along that river; he gets it as incidental to this, but as I say—

Chairman MEYERS.—I would be afraid to take it; I would hear a big howl from Spokane, if I did.

Mr. GRAY.—I don't know how anybody there could prevent you from appropriating it.

The WITNESS.—The city is doing it, and other people along the river are doing it.

Mr. GRAY.—We don't own that water.

Mr. HARTMAN.—They pump enough to irrigate their lands, a good many of them.

The WITNESS.—They are pumping out of the river all of the time.

Mr. GRAY.—Upon the same theory you could tax the city of Spokane for the water flow in that river, and tax everybody else.

Mr. WERNETTE.—They haven't any property that could be enhanced here in the State of Idaho.

Mr. GRAY.—They are getting a large benefit, the City of [180] Spokane; they have a pumping plant and station of their own, power plant, I mean; generate their own power.

Mr. WERNETTE.—We could not tax them.

Mr. GRAY.—It shows the absurdity of it, where such an attempt would lead. If you can tax us for the benefit derived in the State of Washington, you can tax anybody else that lives there and uses it.

Mr. HEITMAN.—They tax us in Washington, and you tax us for the same thing up here.

Chairman MEYERS.—We are not trying to tax you for what you sell down in Spokane, but you are trying to get the benefit here; it is not only benefit here in Idaho, but at the same time you are putting in that dam you are benefiting Spokane and increas-

ing' the value down there.

Mr. HEITMAN.—Increasing the value down there.

Chairman MEYERS.—Yes, sir.

Mr. HEITMAN.—And they tax us for that increased value.

Chairman MEYERS.—No, they can't tax you on that dam.

Mr. GRAY.—That is what they do.

Mr. WERNETTE.—They would be taxing property they would be entitled to tax in Kootenai County.

Mr. GRAY.—No, you can't do it.

Chairman MEYERS.—That furnishes water to Spokane.

Mr. GRAY.—That *that* we furnish from Post Falls, is included in the output of the Post Falls plant, and we are willing to pay taxes, based upon our earnings on that.

The WITNESS.—That is included in the earnings I gave this morning.

Mr. GRAY.—We rather sell it here in Idaho, if we can find a buyer for it. [181]

Comr. FLEMMING.—Q. In your valuation of this power plant as a whole in Post Falls, did I understand you to say this forenoon that you took the cost which you paid for the overflow of the lands up the lake from that valuation? A. Yes, sir.

Comr. FLEMMING.—That is the way I understand it.

The WITNESS.—To arrive at the value of the plant.

Q. Do you think that is a fair basis for us to get of the value of your property, while you have decreased our revenue up the river by overflowing those lands; those lands are not valuable, in fact, decrease it, the valuation up there, at the same time you have subtracted the valuation from the power plant in Post Falls; is it not a double shoot at the revenue?

Mr. GRAY.—Let me answer that, Mr. Flemming. The amount that we are paying for taxes on these lands I will venture to say to you is upon a valuation seven times greater than those men were ever assessed at prior to the time we became the owner of them. Instead of decreasing your revenues, we have increased them.

The WITNESS.—How much; seven times? It is more than that.

Mr. GRAY.—I suppose it is twenty or thirty times.

Comr. FLEMMING.—The valuation on those lands now?

Mr. GRAY.—Yes, sir.

Mr. WONNACOTT.—They were assessed at six dollars an acre last year.

Mr. GRAY.—I say prior to 1907; I will venture to say those [182] lands were not assessed at three dollars an acre.

Comr. FLEMMING.—Real estate all over the county has increased in value since that time.

Mr. GRAY.—It has not increased so rapidly. I can buy the next building to you here with grounds for less than it cost to build it, and real estate in the last two or three years in Kootenai County has not

increased in value in my judgment.

Comr. FERGUSON.—It increased before that.

Mr. GRAY.—Yes, sir; and the last two years it has decreased.

Mr. FERGUSON.—In the last two years?

Mr. GRAY.—It fluctuates like most everything else, I guess, but you see those lands up there are assessed at twenty-five dollars an acre; we think that is an awfully high price for them.

Comr. FLEMMING.—I don't agree with you; I have been over that land this year, and I don't agree with you on that. I am not contending here, sitting as one of the board, that in this matter I can't agree with you, that twenty-five dollars is a high assessment for that land up there.

Mr. GRAY.—We think it is an awful assessment.

Chairman MEYERS.—I will take eighty acres and pay \$50 cash for eighty acres if you will take the water off of it. My father took a piece of land in Illinois that was like this and drained it, and to-day it is the best piece of land in Illinois.

Mr. GRAY.—There is always the question of drainage.

Chairman MEYERS.—We had a one and a half foot fall in eighty rods. [183]

Mr. GRAY.—We have not got it up there.

Chairman MEYERS.—Take the water from it, and I can get it when that dam is out.

Mr. GRAY.—The value is all over toward the hill.

Chairman MEYERS.—You take it two years ago, on the lake, over by the banks, and it rolls in the lake, right along to the top of the banks.

Mr. GRAY.—We had the best engineers in the country to survey it.

Chairman MEYERS.—They found out it was all right, but they gave you the horse laugh at first.

Mr. GRAY.—You can't drain that for \$250 per acre.

Chairman MEYERS.—Yes, I can.

Mr. HEITMAN.—What was that land worth in early days?

Mr. FERGUSON.—A good deal like this prairie land, that we are selling for \$300 an acre.

Comr. FLEMMING.—When I came here, I could have bought half of the prairie for \$3 an acre.

Mr. GRAY.—We think that is the best thing that has come along. There never was anything that increased the value of land in that county like putting that water on it; it has accumulated in value so rapidly.

Chairman MEYERS.—We had twelve years ago an electric light plant here and water plant.

Mr. GRAY.—I mean this land up the river.

Mr. HEITMAN.—You are getting more right now for that low land than ever before.

Comr. MEYERS.—There is nothing that increased the value of the land like sawmills. [184]

Mr. HEITMAN.—That has helped undoubtedly.

Comr. FLEMMING.—The people did not know what was here; what has increased it, this great value of land, the people didn't know what was here.

Mr. GRAY.—I guess I have been here as long as any of you.

Comr. MEYERS.—I bought a piece of land for \$10

an acre when this land was at its lowest ebb; that land you could not get for that to-day.

Mr. WERNETTE.—Q. Have you answered the question, Mr. McCalla?

A. I have forgotten what the question was.

Q. The question was whether or not, because of the fact that you have a plant in Spokane and all this land here where you can make a storage basin out of the Coeur d'Alene River and St. Maries and St. Joe River, and the Lake Coeur d'Alene, that that increases the value of your plant here?

A. It increases the value of the plant here, to the extent that it increases the minimum flow of the river, and that increase is shown by the amount of machinery which we have installed in the plant; in other words, the amount of machinery was based purely upon that flow.

Q. You would not be able to purchase that amount of power in Spokane, if you had not this plant here at Post Falls whereby you could make a storage basin out of the lakes and rivers, could you?

A. There is a certain incidental benefit; no question about that, [185]

Q. Considerable benefit, is it not?

A. Well, it depends on what you would call considerable.

Q. How many horse-power more can you furnish because of the fact that you can regulate the flow of water at Post Falls, in Spokane?

Mr. GRAY.—Enter my objection to all of this.

Mr. WERNETTE.—All right.

A. Certain parts of the year there is no additional amount.

Q. There would be during high water, that would not be decreased, but during low-water season what is the difference?

A. Well, that quantity is more or less of an indefinite nature; it would depend largely on what the flow of the water was during the low-water season any particular time or any particular year; it varies from year to year.

Q. That would be about an average as near as you can estimate, Mr. McCalla?

A. That would be largely a guess.

Q. Well, make a good guess at it then.

A. I should think it would be two or three thousand, perhaps.

Q. Two or three thousand horse-power?

A. Yes, sir.

Mr. GRAY.—That is on an average, Mr. McCalla?

A. Yes, sir.

Mr. WERNETTE.—Q. Have you any other plants except the Spokane plants that are affected by the regulation of the flow here at Post Falls, Mr. McCalla? [186]

A. Well, there is the plant at the city of Spokane; there is the power site there owned by the paper company above that.

Q. I mean of your own, owned by you?

A. No.

Q. I mean owned and controlled by the Washington Water Power Company?

A. Yes, we have one plant which was not constructed, by the way, until after the completion of the Post Falls plant.

Q. Where is that?

A. That is at a place known as Little Falls.

Q. About what number of horse-power can you furnish more there by reason of the fact that you can regulate the flow of water here at Post Falls?

Mr. GRAY.—That is improper; this was constructed at Post Falls before this one was ever purchased.

A. We never thought of this plant at the time of the development of the Post Falls plant.

Mr. WERNETTE.—They are not basing the value of the Post Falls plant down at Spokane, by any means.

Mr. GRAY.—No, but taxing water power that you develop or might develop there?

Mr. WERNETTE.—No, they are taxing the property, not the water power.

Mr. GRAY.—That is where you are mistaken; they are taxing every horse-power.

Mr. WERNETTE.—Put it whatever way you want it.

Mr. MEYERS.—The way I look at it is this, if it had not been that you had that storage plant here, I don't believe that you would have invested as much money down there as you have. [187]

Mr. WERNETTE.—Q. Now, let us get at this other proposition. You can answer it or don't. You can suit yourselves in regard to it. How about that Little Falls plant, about how many horse-power are you developing there?

A. I don't know what the load on that plant has been. Is that what you mean?

Q. I want to get at it in a general way, to find out what the difference is, because of the fact that you have a storage basin here.

A. The head is the same practically, practically the same as that in Spokane, the power would vary directly with the head; the head being the same, the power would be about the same.

Q. Between two and three thousand or two or three hundred?

A. Two or three thousand; of course, that is assuming that we get all of that water. Now, that is not, of course, the fact; and that is putting too high a figure on that. A lot of that water is being taken out along the river by different concerns, and, of course, we know we don't get it all; we don't know how much we do get of it; nobody else does, I guess.

Comr. FLEMMING.—Q. There is no more water taken by private individuals and irrigating companies than there would be if you did not have this storage basin?

A. Certainly, there is more; there is a possibility of more being taken out.

Mr. WERNETTE.—Q. Here, Mr. McCalla, if it don't take too long or too much trouble, about how much per kilowatt have you produced, earned the cost of construction in putting in the plant at Post Falls. It is not necessary to be [188] figured down to cents, but about how much?

A. I would have to look that up a little bit; I could not give you an off-hand answer.

Q. What, according to engineering statistics, is the cost per kilowatt of putting in a typical plant

similar to the one at Post Falls, about?

A. They vary a good deal, depending on the ease of construction and the natural difficulties to overcome and transportation, etc. Transportation is a very simple matter there.

Q. Do they vary a very great deal?

A. Yes, a very great deal.

Q. About how much would they vary, do you say?

A. I should say two or three hundred per cent.

Q. Two or three hundred per cent?

A. Two or three hundred per cent.

Q. Is it not a fact that the cost per kilowatt according to typical plants, the same as down at Post Falls, is in the neighborhood of \$58 to \$1.65 per kilowatt?

A. I think our cost there was a good deal more than that. You have the figures.

Q. You think the cost was a good deal more at Post Falls than \$58 to \$65 per kilowatt?

A. What do you figure there, on the kilowatts installed?

Q. Yes, sir; kilowatts installed.

A. Or the kilowatt capacity?

Q. Kilowatts installed.

A. For instance, if the plant cost a million dollars and you have eleven thousand nine hundred, say twelve thousand horse-power, it would be a little over \$80 a horse-power. [189]

Q. How much a horse-power?

A. If the low-water flow was eleven thousand nine hundred, and it cost a million dollars, eighty dollars would be nine hundred sixty thousand dollars; it

would be about eighty dollars.

Q. You don't know, then, about how much it would cost unless you did some figuring?

A. The cost, you mean, of the raw power?

Q. Yes, sir.

A. Well, it would cost \$109,000; that is about \$10.

Q. Yes, but I mean for putting in the machinery, to put it so that you could use the power in putting in plants.

A. You have the figures there, \$80 and \$10.

Q. What is the Washington Water Power Company capitalized at, Mr. McCalla?

A. You mean the capital, or the capital and bonds?

Q. Yes.

A. As I recall, about between six and seven millions of stock, and the total capitalization runs about sixteen millions, a little over sixteen millions.

Q. About sixteen million; what part of that is represented here in Kootenai County?

A. There is about a little over a million.

Q. A little over a million?

A. Yes, about a million dollars.

Q. When was it that the last dividend was declared on the stock of the Washington Water Power Company? A. The last quarterly dividend. [190]

Q. How large a dividend was it, what per cent?

A. Two per cent.

Q. And was it two per cent on the capital stock that was represented here?

A. Yes, sir; two per cent on the total capital.

Mr. GRAY.—Q. Two per cent on all of the capital, wasn't it?

MR. WERNETTE.—Q. Two per cent on all of the capital stock, on sixteen million dollars?

A. No, two per cent on the capital stock, the total capitalization was the stock.

Q. Upon your stock, say sixteen millions?

A. Yes, sir.

Q. What is the capital stock?

A. I have forgotten just what the total amount of capital stock outstanding is at the present time; I think it is about six millions.

Q. Six millions? A. Yes, sir.

Q. And a two per cent quarterly dividend was declared on six millions, or about six millions?

A. Yes, sir.

Q. And how much of that was on the property that is represented here in Kootenai County?

MR. GRAY.—It is not segregated.

MR. WERNETTE.—It is not segregated?

MR. GRAY.—No, there are no segregations.

THE WITNESS.—It is one company; we don't handle it by subsidiary corporations; it is not a holding company. All [191] of the water in our company is in the river; the securities are free.

MR. GRAY.—I think Mr. McCalla misunderstood you; it is all one concern; there is no division of stock.

MR. WERNETTE.—Q. Only one-sixteenth of the whole plant represented here?

A. Yes, that is just about the proportion exactly. The power station is the smallest part of your investment. For instance, take just as an example, which I happened to look up the other day, our investment

in Spokane for the municipal lighting, for the city street lights, assuming if you will that the power cost \$100 a horse-power, taken from the switch-board, that is \$100 at the switchboard, the rest to furnish the service, in addition to that \$100, there is nearly \$200 more on the power that it costs us, about \$300 delivered *delivered*, that includes the transformers, pole lines, cables, and all of the work incidental to furnishing the service. In other words, the power itself is the smallest part of the expense that goes into it. The cost of the service is the chief cost, it is not the cost of the power. The commissions, in cities where they have commissions, recognize that fact, because it is a fact. It may cost in a paved street in the City of Spokane, where we furnish service, it may cost two or three hundred dollars a horse-power to get from the pole line into a man's property, into his store; most people don't take that into consideration, yet it is a fact, and that is where the big investment is. We have a very large investment down there for the power, which is purely insurance, it don't earn anything; [192] it is purely insurance. The same way with the steam plant, that is purely insurance; it don't earn anything; it is expense.

Q. That is a million dollar plant?

A. Yes, sir; approximately; it cost about nine hundred thousand I think.

(By Mr. HEITMAN.)

Q. That steam plant, does that supplement the water plant when the water is low?

A. That is, in case of deficiency of the water or

troubles of that nature.

Q. Or breakdown?

A. Breakdown; it is purely an insurance feature.

Q. You have a million dollars invested in that?

A. We have about nine hundred thousand dollars invested in that.

Mr. WERNETTE.—Q. Was that two per cent paid on \$6,000,000 or twelve or fifteen million?

A. It was paid on the capital stock which, as I recall is about six million.

Q. Six million?

A. Yes, sir; of course that sixteen millions includes the street railway system and interurban railway system; that is the total property. There is an item of expense in our business which people lose sight of, expense of metering, which runs per horsepower over half as much as that of the station, the amount of money invested in meters.

Mr. WERNETTE.—I think that will be all of the questions I desire to ask.

(By Mr. GRAY.)

Q. You asked Mr. McCalla to get for you the figures that [193] were paid to Bennett and Bieler?

Mr. WERNETTE.—Yes, sir.

Mr. GRAY.—Mr. McCalla has simply telephoned to his office to get them, and we have those here, which we will be glad to furnish.

Mr. WERNETTE.—All right; put those in.

Mr. GRAY.—Q. This was everything that was paid?

A. I have the total here of \$143,216.43.

Q. That was mostly for excavation; that was all they did, was excavating there, did they not, Mr. McCalla?

A. No, they completed the works in the South channel that was completed; it included, a large part—all of the excavation, and a part of the concrete in the middle and in the North Channel.

Q. The depreciation which you gave on each of those items, of building the dams and machinery this morning you regard as conservative?

A. I think they are very conservative.

Q. It is a fact, is it not, that where the Wisconsin public service commission has passed upon depreciation of a telephone company that they have allowed from four to five per cent? A. Yes, sir.

Q. And on an electric company how much?

A. About seven per cent right straight through on machinery.

Q. Was the Post Falls plant constructed or designed with reference to the development of any power other than the power at Post Falls? [194]

A. It was not.

Q. Did you have that under consideration at the time that you constructed it, your power plant at Spokane? A. No, sir.

Q. Or did you appreciate that it would be of any advantage?

A. We never made any plans at all on the power at Spokane.

Q. There was one piece of property there, you gave the cost of that property at \$69,500, and you also spoke of the Martin and Strathern property and of

the grist-mill. What was paid for the grist-mill property?

A. Paid \$40,000 for the grist-mill.

Q. That is what made up that \$109,000?

A. Yes, sir.

Q. Was that one, compared with the other property, worth \$40,000?

A. That was the last piece in the link, and we paid the price to avoid trouble.

Q. Has anything been done with that grist-mill since then?

A. No, sir; it is unsold; we will give it away at a very reasonable figure.

Q. You had to buy it to get the rest of the property?

A. We had to buy it to get the rest of the property.

Mr. GRAY.—I think that is all.

(By Mr. WERNETTE.)

Q. Is it not a fact that you built the plant at Spokane as you did on the strength of the fact here whereby you could make a storage basin out of Coeur d'Alene Lake and the river tributary to the Coeur d'Alene Lake? [195]

A. No, I think that is not a fact. I don't think we have bought any machinery for Spokane plant since the completion of the Post Falls works.

Q. Then you had machinery in there that could handle water as you could produce it, by regulating the water here at Post Falls?

A. Well, in any plant you have got to put in besides the machinery for the actual load on the plant you have got to put in some spare apparatus.

Mr. GRAY.—Q. Was that put in, with any view to any development? A. No, certainly not.

Mr. WERNETTE.—That is all.

Thereupon after some discussion the matter was adjourned to July 25th, 1911, at 10 o'clock A. M.

Filed August 20th, 1912. A. L. Richardson, Clerk.

[196]

Plaintiff's Exhibit No. 18.

1908.

PROPERTY IN KOOTENAI COUNTY.

Post Falls Plant.

Dams.

Depreciation 2%	\$ 6,705.64	
Maintenance		\$ 3,000.00

Buildings.

Depreciation 3%	2,756.77	
Maintenance		2,000.00

Machinery.

Depreciation 5%	20,136.90	
Maintenance		8,030.82

Operation		\$8,631.25
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Taxes		10,429.78
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Transmission lines

Depreciation 8%	12,800.00	
Maintenance		8,000.00

\$42,399.31	\$21,030.82	\$19,061.03
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Depreciation, Maintenance, Operation and Taxes...\$82,491.16

[197]

218 *The Washington Water Power Company vs.*

1908.

PROPERTY IN SHOSHONE COUNTY.

10 Substations.			
2 " Buildings.			
Depreciation 5%	\$ 8,000		
Maintenance		\$ 4,000	
Taxes.....			\$ 784.22
Operation.....			3,900
Transmission Lines.			
Depreciation 8%	10,280.80		
Maintenance		6,269	
Taxes.....			580.00
	<hr/>	<hr/>	<hr/>
	\$18,280.80	\$10,269	\$ 5,264.22

Depreciation, Maintenance, Operation and Taxes...\$23,814.02

[198]

1908.

	Kilowatt Hours.
Shoshone County (delivered).....	22,534,397
Line loss 10%	2,253,439
Coeur d'Alene Railway (at switchboard).....	4,776,000
Martin "	246,415
Strathern "	1,106,281
Kootenai Power Co.	1,865
Nor. Idaho & Mont. Power (Percentage in Idaho).....	00
<hr/>	<hr/>
TOTAL AMOUNT CONSUMED IN IDAHO.....	30,918,397
Total output Post Falls Plant.....	40,399,000
Less amount sold in Idaho	30,918,397
Excess at Switchboard	9,480,603
Line loss in sending to Spokane 10%.....	948,060
<hr/>	<hr/>
Delivered at Spokane.....	8,532,543
Loss by conversion 25%.....	2,133,136
<hr/>	<hr/>
NET DELIVERED	6,399,407
6,399,407 K. W. H. at \$0.006 per kilowatt hour.....	\$ 38,396.44
Revenue in Idaho	259,851.73
<hr/>	<hr/>
TOTAL REVENUE	298,248.17
Expense less management	106,305.18
<hr/>	<hr/>
Management	191,942.99
	21,400.00
<hr/>	<hr/>
NET REVENUE	170,542.99

[199]

Kootenai County and Fred E. Wannacott. 219

1909.

Cost to 2nd Monday in January, 1910.

PROPERTY IN KOOTENAI COUNTY.

Post Falls Plant.

Dams.

Depreciation 2%	\$ 6,705.64	
Maintenance		\$ 3,000.00

Buildings.

Depreciation 3%	2,756.76	
Maintenance		2,000.00

Machinery.

Depreciation 5%	20,136.90	
Maintenance		8,030.82

Operation		\$8,756.38
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Taxes		27,880.69
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Transmission lines.

Depreciation 8%	12,800.00	
Maintenance		8,000.00

Switching Station.

Depreciation 5%	1,160.00	
Maintenance		1,160.00

	\$43,559.30	\$22,190.82	\$35,637.07
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Depreciation, Maintenance, Operating and Taxes...\$101,387.19

[200]

1909.

PROPERTY IN SHOSHONE COUNTY.

10 Substations.

2 " Buildings.

Depreciation 5%	\$8,000	
Maintenance		\$4,000
Taxes		\$784.22
Operation		3,900.00

Transmission lines.

Depreciation 8%	13,942.40	
Maintenance		7,806
Taxes		1,525.04

	\$21,942.40	\$11,806	\$ 6,209.26
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Depreciation, Maintenance, Taxes and Opreation...\$39,957.66

[201]

220 *The Washington Water Power Company vs.*

1909.

	<u>Kilowatt Hours.</u>
Shoshone County (delivered)	24,040,306
Line loss 10%	2,404,030
Coeur d'Alene Railway (at switchboard).....	5,110,000
Martin	247,926
Strathern	1,279,819
Kootenai Power Co.	12,794
Nor. Idaho & Mont. Power (percentage in Idaho).....	
TOTAL AMOUNT CONSUMED IN IDAHO.....	<u>33,094,875</u>
Total Output Post Falls Plant	49,043,000
Less amount sold in Idaho.....	<u>33,094,875</u>
Excess at switchboard	15,948,125
Line loss in sending to Spokane 10%	<u>1,594,812</u>
Delivered at Spokane	14,353,313
Loss by conversion 25%	<u>3,588,328</u>
NET DELIVERED	10,764,985
10,764,985 K. W. H. at \$0.006 per kilowatt hour.....	\$ 64,598.91
Revenue in Idaho	<u>246,532.13</u>
TOTAL REVENUE	311,122.04
Expense less management	<u>141,344.85</u>
	169,777.19
Management	<u>21,400.00</u>
NET REVENUE	<u>\$148,377.19</u>

[202]

Kootenai County and Fred E. Wannacott. 221

1910.

PROPERTY IN KOOTENAI COUNTY.

Post Falls Plant.

Dams.

Depreciation 2%\$ 6,705.64
 Maintenance \$ 3,000.

Buildings.

Depreciation 3% 3,524.78
 Maintenance 2,000.

Machinery.

Depreciation 5% 20,249.11
 Maintenance 8,030.82

Operation..... \$ 8,819.00

Taxes..... 39,693.42

Transmission Lines.

Depreciation 8% 14,640.00
 Maintenance 10,300.00

Switching Station.

Depreciation 5% 1,160.00
 Maintenance 1,160.00

\$46,279.53	\$24,490.82	\$48,512.43
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Total Depreciation, Maintenance, Operation and Taxes..\$119,282.77

[203]

1910.

PROPERTY IN SHOSHONE COUNTY.

10 Substations.

3 " Buildings.

Depreciation 5%\$ 8,125.00
 Maintenance \$ 4,000.00
 Taxes..... \$1,500.00
 Operation..... 3,953.00

Transmission lines.

Depreciation 8% 14,578.00 8,337.00 1,711.00

\$22,703.00	\$12,337.00	\$ 7,164.00
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Depreciation, Maintenance, Taxes and Operation....\$42,204.

[204]

222 *The Washington Water Power Company vs.*

Revenue for 1910.

	Kilowatt Hours.
Shoshone County (delivered).....	28,409,826
Line loss 10%	2,840,982
Coeur d'Alene Railway (at switchboard).....	6,068,200
Martin "	207,613
Strathern "	1,443,447
Kootenai Power Co.	22,318
Nor. Idaho & Mont. Power (Percentage in Idaho).....	00
TOTAL AMOUNT CONSUMED IN IDAHO.....	38,992,386
Total output Post Falls Plant	57,127,000
Less amount sold in Idaho	38,992,386
Excess at switchboard	18,134,614
Line loss in sending to Spokane 10%	1,813,461
Delivered at Spokane	16,321,153
Loss by conversion 25%	4,080,288
NET DELIVERED	12,240,865
12,240,865 K. W. H. at \$0.006 per kilowatt hour.....	\$ 73,445.00
Revenues in Idaho	283,020.02
TOTAL REVENUE	\$356,465.02
Expense less management	161,486.77
	194,978.25
Management	21,400.00
NET REVENUE	\$173,578.25
[205]	
Net Revenue, 1908.....	\$170,542.99
" " 1909	148,377.19
" " 1910	173,578.25
TOTAL	3/ 492,498.43
Average for 3 years.....	\$164,166.14
[206]	

Kootenai County and Fred E. Wannacott. 223

Capitalized at 10% on average of three years net earnings...\$1,641,661.40
Deduct.

Shoshone County property 2nd Monday January, 1911.....	\$344,725.00	depreciated value	\$265,585
Overflow lands Kootenai County Assessed	200,000.00	as testified by Wannacott	
Pole lines Kootenai County Assessed.	183,000.00		
Substation at Cataldo depreciated cost 2nd Monday January, 1911..	20,880.00		748,605
VALUE POST FALLS PLANT.			\$893,056.40
Using depreciated value Shoshone County property as in Idaho, except Post Falls Plant is			\$265,585. property
making			\$669,465.
VALUE POST FALLS PLANT.....			\$972,196.40

224 *The Washington Water Power Company vs.*

POST FALLS PLANT.

Cost less Depreciation on 2nd Monday January, 1911.

From July 1906-4½ years.

Dams—2%.

Year.	Cost.	Depreciation During Period.	Depreciated Cost End of Period.
To July 1, 1906	315,602.93	\$ 3,156.03	
“ Jan. “ 1907	329,288.69	6,585.77	
“ “ “ 1908	335,152.63	6,703.05	
“ “ “ 1909	335,281.96	6,705.64	
“ “ “ 1910	335,281.96	6,705.64	310,169.00
“ “ “ 1911	340,025.13		
		<u>\$29,856.13</u>	

Buildings—3%.

To July 1, 1906	68,557.91	1,028.37	
“ Jan. “ 1907	87,754.20	2,632.63	
“ “ “ 1908	91,724.93	2,751.75	
“ “ “ 1909	91,892.27	2,756.77	
“ “ “ 1910	117,492.57	3,524.78	130,831.11
“ “ “ 1911	143,525.41		
		<u>\$12,694.30</u>	

Machinery—5%.

To July 1, 1906	193,437.90	4,835.95	
“ Jan. 1, 1907	254,425.55	12,721.28	
“ “ “ 1908	310,494.32	15,524.72	
“ “ “ 1909	402,737.93	20,136.90	
“ “ “ 1910	404,982.22	20,249.11	
“ “ “ 1911	421,898.91		348,430.95
		<u>\$73,467.96</u>	
			<u>\$789,431.06</u>

Cost of Dams to Jan. 1st, 1911.....	\$340,025.13
“ “ Buildings to Jan. 1st, 1911.....	143,525.41
“ “ Machinery “ “ “ “	421,898.91
TOTAL	<u>\$905,449.45</u>

Depreciated Cost of Dams, Buildings and Machinery, Jan. 1st, 1911	<u>\$789,431.06</u>
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Difference between total Cost to Jan. 1st, 1911, and
Depreciated Cost same date of Dams, Buildings
and Machinery\$116,018.39

Kootenai County and Fred E. Wannacott. 225

Depreciated Cost of Dams, Buildings and Machinery, January 1st, 1911.....	\$789,431.06
Land	109,272.44
	<hr/>
	\$898,703.50
Plant Balance Jan. 1st, 1911.....	\$898,703.50
Add 10% for intangible values.....	89,870.35
	<hr/>
TOTAL	\$988,573.85

Filed August 20, 1912. A. L. Richardson, Clerk. [209]

Plaintiff's Exhibit 21.

Subdivision.	Sec.	Twp.	R.	Acres.	Value.	State and County.	Road Dist. No.	TAXES. School Dist. No.	Special School.	Special Road.	Total Tax.
St. M. Land Co: Unplatted part Lot 2. CDA & St. Joe Trans. Co.:	22	46	2 W	14	300	per acre					
Part of Lot 3. Connolly & Kroetch: Lot 6	1	47	4 W	1	1500				Less than 1 acre.		
A. A. Crane: Part Lots 3 & 4	1	47	4 W	1	300				Less than 1 acre.		
J. J. Costello: NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$	18	50	3 W	40	200	per acre					
18	50	3 W	10	275	per acre						
18	50	3 W	20	275	per acre						
Maria A. Daley: E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$	18	50	3 W	20	200	per acre					
C. F. Chapin: Lot 1 5 acres Lot 1	18	50	3 W	34	242 50	per acre					
Henry Weaver: E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ & NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ Less Road & R. of Way	12	50	4	29	155	per acre					
J. C. Cook: 3 of S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$	12	50	4	3	400	per acre					

Subdivision.	Sec.	Twp.	R.	Acres.	Value.	State and County.	Road Dist. No.	School Dist. No.	Special School.	Special Road.	Total Tax.
L. S. Wing: E. 396 Ft. of W. 330 ft. of W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$	12	50	4	3	200	per acre					
Mrs. J. J. Judd: S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$	12	50	4	5	400	per acre					
M. C. Easley: NE $\frac{1}{4}$ NE $\frac{1}{4}$	11	50	4	40	164	per acre					
NW $\frac{1}{4}$ NE $\frac{1}{4}$	11	50	4	40	164	per acre					
SW $\frac{1}{4}$ NE $\frac{1}{4}$	11	50	4	40	164	per acre					
Nellie Des Voigne: N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$	13	50	4	5	400	per acre					
J. J. O'Brien: 30 A. of NE $\frac{1}{4}$ SE $\frac{1}{4}$	13	50	4	30	350	per acre					
T. T. Kerl: $\frac{1}{4}$ Acre on South End of Govt Lot 45	14	50	4	$\frac{1}{4}$	6480	per acre					
Taylor Bros: $\frac{1}{4}$ on S. End of Lot 5	24	50	4	1- $\frac{1}{4}$	1136	per acre					

Subdivision.	Sec.	Twp.	R.	Acres.	Value.	State and County.	Road Dist. No.	TAXES. School Dist. No.	Special School.	Special Road.	Total Tax.
M. D. Wright: Lot 2	3	51	3 W	9.28	511	per acre					
Rose Caplice: N. 5 acres of Lot 1 Hayden Lake Imp. Co: NE $\frac{1}{4}$ SW $\frac{1}{4}$ Less R. of Way	17	51	3 W	5	200	per acre					
Lot 6	18	51	3 W	36	167	per acre					
John A. Finch: 10 acres of Lot 1	18	51	3 W	22	404	per acre					
Walter Orgden: Lot 7	19	51	3 W	10	200	per acre					
Thomson, Klappenberg & Brockman: N $\frac{1}{2}$ Govt. Lot 20	18	53	4 W	$\frac{1}{2}$	200	per acre					
Dryad Lbr. Co.: Lot 8,	11	50	4 W	8.	500	per acre					
Lot 9,	11	50	4 W	20.47	300	per acre					
Lot 16,	11	50	4 W	1.47	171	per acre					
Lot 22,	11	50	4 W	14.30	245	per acre					
C. K. Leithe: East 9 acres Lot 24,	11	50	4 W	14.78	300	per acre					
	11	50	4 W	9	300	per acre					

Subdivision.		Sec.	Twp.	R.	Acres.	Value.	State and County. per acre	Road Dist. No.	School Dist. No.	Special School.	Special Road.	Total Tax.
J. Arhart: Lot 11, Dryad Lbr. Co.:		11	50	4 W	3½	250						
Lot 18,		14	50	4 W	4.96	810	per acre					
Lot 46		14	50	4 W	17.71	900	per acre					
Lot 47,		14	50	4 W	21.26	888	per acre					
M. B. Onillan:												
1 acre of Lot 19,		14	50	4 W	1	1200	per acre					
Wm. Dollar:												
Lots 22-23		14	50	4 W	2	1400	per acre					
Unknown:												
Beauty Park comprising 80 acres, being N½ NW¼		6	50	3 W	80	240	per acre					
Unknown:												
Best Lands—being part of S½ SE¼		1	50	4	about 60 acres.	200	per acre					
A. Hansen:												
Lakeside Gardens 16 & 17,					2	250	per acre					
C. H. Gibbs:												
Lakeside Gardens—18-19 28, 29, 32, 33, 34, 35, 36, 37, to 52 Inc. 55 to 69 Inc.					40	175	per acre					

Subdivision.	Sec.	Twp.	R.	Acres.	Value.	State and County.	Road Dist. No.	School Dist. No.	Special School.	Special Road.	Total Tax.
C. H. Gibbs, Lot 31 Lake- side Gardens	31			1	210	per acre					
C. M. Graves:											
Hayden Lake Cottage											
Sites—Lot 1,				6.72	400	per acre					
Lot 9,				1.03	400	per acre					
A. L. White:											
Hayden Lake Cottage				7	400	per acre					
Sites Lots 2, 7, 8,											
Various Owners:											
Hayden Lake Cottage											
Sites—3, 4, 5, 6				4½	400	per acre					
St. Maries Land Co.:											
Rivendale—Lot 8,				1.98	151	per acre					
T. R. Danson:											
Wm. Freeman:											
Rivendale—Lot 31,				8.74	150.12	per acre					
Consumer's Co., Ltd.:											
Lot 2 Assessor's plat 4,				3/10	250	per acre					
Lot 3 " " "				1.65	600	per acre					
Taylor Bros:											
Lot 5, Assessor's plat #4				2	250	per acre					

Subdivision.	Sec.	Twp.	R.	Acres.	Value.	State and County.	Road Dist. No.	TAXES.				
								School Dist. No.	Special School.	Special Road.	Total Tax.	
Dryad Lbr. Co.:												
W. part Lot 2,				2 1/2	240	per acre						
Riverdale--Lot 9,				47 1/100	160	per acre						
W. 5 1/2 acres Lot 7,				14	486	per acre						
W. 8 1/2 acres Lot 8												
Assessor's plat #12												
Unknown:												
E 13 A. Lot 2				13	300	per acre						
Assessor's plat #12												
C. M. & P. S. Ry. Co.:												
E. 7 A. Lot 7				7	300	per acre						
Assessor's plat #12												
S. & I. E. Ry. Co.:												
Lot 14 Assessor's plat #12				2.4	1460	per acre						
Lot 16 " #12				3 1/4	1077	per acre						
Lot 17 " #12				3 1/4	922	per acre						
S. A. Varnum:												
Lot 5, Assessor's Plat 13				4.17	900	per acre						

[212]

ASSESSOR'S PLAT #14.

Subdivision.	Sec.	Twp.	R.	Acres.	Value.	State and County.	Road Dist. No.	School Dist. No.	Special School.	Special Road.	Total Tax.
M. Ingerlund—Lot 1				5	300	per acre					
Anna Williams, Lot 2				9.6	335	per acre					
Louis Donart, Lot 3				1	420	per acre					
Effie Tomlin, Lot 4				83/100	512	per acre					
M. B. Chase, Lot 6				1	475	per acre					
C. H. Clingam, Lot 7				1	475	per acre					
Spokane Leather Co., Lot 18				1	425	per acre					
Mrs. E. A. Gentry, Lot 19				1	350	per acre					
Spokane Leather Co. Lot 20				1	375	per acre					
Mrs. I. M. Coville, Lots 23 & 24				5	300	per acre					
H. P. Coville Lot 25				5	300	per acre					
E. G. Welch, Lot 26				15.8	316	per acre					

ASSESSOR'S PLAT #17.

Stewart Est. Lot 3,				10	200	per acre					
Mrs. Martha Decker:											
Part of Lot 4,				3½	243	per acre					
J. M. Morris:											
Part of Lot 5				1½	367	per acre					
John Nordstrum, Lot 8,				2	350	per acre					
H. C. Hugas, Lot 10,				5	180	per acre					
I. E. Ry. Co., Lot 14,				3½	243	per acre					
A. Perreoud, Lot 15,				10	225	per acre					
E. J. Seymour, Lot 16,				2	225	per acre					
Ella M. Reynolds, Lot 17,				5	250	per acre					
Various Owners: Lot 18,				5	300	per acre					
Geo. W. Groves, Lot 19,				5	490	per acre					
H. S. Matthews, Lot 20,				5	220	per acre					

ASSESSOR'S PLAT #18.

TAXES.
School
Dist.
No.

Road
Dist.
No.

Special
School.
Road.

Total
Tax.

Subdivision.	Sec.	Twp.	R.	Acres.	Value.	State and County.
J. Nevatte, Lot 1,				2 1/2	240	per acre
J. G. Patchen, Lot 2,				1 1/2	267	per acre
M. G. Whitney, Lot 3				1 3/4	400	per acre
Wm. Morgan, Lot 4,				3/4	400	per acre

ASSESSOR'S PLAT #19.

N. P. Palmeter, Lot 1,				1	400	per acre
Chas. Ingram, Lot 2,				1	350	per acre
A. H. Bekel, Lot 3,				1	250	per acre
Job Olmstead, Lots 4, 5				2	300	per acre
Thos. Riley, Lot 6				1	300	per acre
Hannah K. Andrew, Lots 7, 8, 9				3	267	per acre
James D. Aoust, Lots 12, 13				2	350	per acre
John H. Stevens, Lots 14, 15				2	400	per acre
Mary B. Hawkins, Lot 16				1	450	per acre
Jack Marshall, Lots 17, 18				2	375	per acre

ASSESSOR'S PLAT #25.

Belle Orr, Lot 1,				1 3/4	154	per acre
A. J. Patrick, Lot 2,				2	157	per acre
S. K. Meyers, Lot 4,				1 1/2	220	per acre
John Zigg, Lot 5,				1	250	per acre
J. W. Doddard, Lot 6,				13 1/2	252	per acre
C. C. Miller, Lot 7				5	225	per acre
R. M. Remington, Lot 8,				2	225	per acre
Albert Greenstreet, Lot 9,				1 3/4	242	per acre
S. K. Meyers, Lot 10,				2	200	per acre
Catherine Bell, Lot 21,				1 1/2	917	per acre
John Clinton, Lot 22				1 1/2	917	per acre
John Wunderlich, Lot 23,				1.1	273	per acre
Mrs. G. C. Benton, Lot 24,				2 1/4	333	per acre
Sarah J. Anthony, Lot 25,				1	300	per acre

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ASSESSOR'S PLAT #25.

TAXES.
 School Dist. No.
 Special School.
 Special Road.
 Total Tax.

Road Dist. No.

State and County.

Value.

Acres.

R.

Sec.

Twp.

Subdivision.

A. H. McKillip, Lot 29,	1½	250																	
A. H. McKillip, Lot 30	4¾	210																	
Chas. Young, Lot 31,	5	250																	
Chas. Gridley & Barber, Lot 33,	22	300																	
Jasper Martin, Lot 34,	2	250																	
Carl Cedarbloom, Lots 35, 36,	5	300																	
Chas. Gridley, Lot 37,	9	405																	
Ella S. Minnick, Lot 38,	5	360																	
S. H. Stadler, Lot 45,	3	300																	
J. Z. Cleveuger, Lot 46,	2	250																	
Louis Larson, Lot 47,	2	250																	

ASSESSOR'S PLAT #26.

Robt. Allen, Lot 11,	2½	180																	
Fred Westerberg, Lot 12,	2	225																	

ASSESSOR'S PLAT #27.

J. H. Edwards, Lot 15,	10	300																	
E. O. Best, Lot 6,	5	180																	

ASSESSOR'S PLAT #30.

Wm. Kruse, Lot 4,	2	200																	
Frank O. James, Lot 5,	3½	200																	
Edw. Delevan, Lot 7,	7½	160																	
C. E. Sheldon, Lot 9 (part)	10	200																	

ASSESSOR'S PLAT #35.

Wm. Howard Land & Lbr. Co.:																			
Lot 2,	2½	480																	
St. Maries Land Co.	1½	867																	
Cole Bros. Lot 21,	4½	222																	

Subdivision.	Sec.	Twp.	R.	Aces.	Value.	State and County.	Road Dist. No.	School Dist. No.	Special School.	Special Road.	Total Tax.
J. H. Harte:											
Tract "B" Sub. Div. of	26	50	4	1¾	228	per acre					
Lots 1, 2,											
E. D. Olmstead:											
Tract "F" Sub. Div. of	26	50	4	2¼	200	per acre					
Lots 1, 2,											
H. B. Luhn:											
Lot 2 of S½	23	49	4	8	196	per acre					
John Hessler:											
Lot 3 of S½	23	49	4	3	200	per acre					
Dryad Lbr. Co.:											
Lots 1, 3, 4 of SE¼	10	50	4	3.11	281	per acre					
Unknown:											
5 acres of Lot 4 of SW¼	1	50	4	5	225	per acre					
H. Gilbert 5 of Lot 8 of SE¼	22	50	4	5	200	per acre					

Average value of this and preceding pages is \$407.21 per acre,
Maximum \$6480.
Minimum \$150.12

MEADOW HURST, NEAR ST. MARIES.

Subdivision.	Tract.	Twp.	R.	Acres.	Value.	State and County.	Road Dist. No.	TAXES.			
								School Dist. No.	Special School.	Special Road.	Total Tax.
St. Maries Land Co.	1			1.24	248						
"	2			1.02	204						
"	3			.85	170						
"	4			.79	158						
"	5			.78	156						
"	6			.89	178						
"	7			.89	178						
"	8			1.10	275						
"	9			1.12	280						
"	10			1.21	302						
"	11			1.29	323						
"	12			1.40	420						
"	13			1.49	447						
"	14			1.82	546						
"	15			1.07	321						
"	16			1.14	342						
"	17			1.14	342						
"	18			.90	270						
"	19			.73	229						
Trueman & Wunderlick:	20			.94	282						
"	21			.86	258						
"	22			.68	204						
"	23			.29	116						
"	24			.45	180						
"	25			.55	220						
"	26			.62	248						
"	27			.47	180						
J. P. White:	28			.51	204						
"	29			.56	224						
Dora Lewis:	30			.57	228						
"	31			.55	220						

The values shown hereon are for each tract and not the value per acre. Values are in excess of \$150 per acre. Agricultural Land, and land is not irrigated.

Subdivision.	Traet.	Twp.	R	Acres.	Value.	State and County.	Road Dist. No.	School Dist. No.	SPECIAL School.	SPECIAL Road.	TOTAL Tax.
C. G. Castor:	32			.48	192						
S. A. Hotchkiss:	33			.57	228						
St. M. Land Co.:	34			.57	228						
"	35			.57	228						
"	36			.57	228						
"	37			.57	228						
"	38			.57	228						
"	39			.57	228						
"	40			.57	228						
"	41			.57	228						
"	42			.57	228						
"	43			.57	171						
"	44			.69	207						
"	49			1.14	342						
"	51			1.08	216						
"	52			.52	258						
C. G. Castor:	56			1.08	324						
"	57			1.08	324						
"	58			.68	204						
F. B. Chase:	59			.68	204						
St. Maries Land Co:	60			1.08	324						
"	61			1.08	324						
"	62			1.08	324						
"	63			1.08	324						
Trueman & Wunderlich:	64			1.08	324						

MEADOW HURST, NEAR ST. MARIES.

Subdivision.	Tract.	Twp.	R.	Acres.	Value.	State and County.	Road Dist. No.	TAXES.			
								School Dist. No.	Special School.	Special Road.	Total Tax.
Trueman & Wunderlich:	65			1.08	324						
"	66			1.08	324						
"	67			1.08	324						
St. Maries Land Co:	68			1.50	450						
"	69			1.11	333						
"	70			1.62	486						
"	71			2.39	717						
"	72			4.80	960						
"	74			3.36	672						

Values shown hereon are for each Tract and not the value per acre. Values are in Excess of \$150.00 per acre. Agricultural Land, and land is not irrigated.
Average value of Meadow Hurst is \$290.54 per acre.

Filed August 20, 1912. A. L. Richardson, Clerk. [218]

Plaintiff's Exhibit No. 23.

ELEVATIONS OF COEUR D'ALENE LAKE.

Date.	1899.	1903	1904	1905.	1906.	1907.	1908.	1909.	1910.	1911.	1912.
Jan. 1.			2122.60	2120.78	2120.78	2126.11	2121.61	2122.15		2122.70	2122.00
Jan. 15.			2122.10	2120.45	2120.90	2123.78	(o) 2121.57	2122.20		2122.32	2121.70
Jan. 31.			2122.30	2120.90	2121.78	2122.36	(p) 2121.70	2124.78		2121.90	2124.30
Feb. 15.			2121.70	2120.65	2122.11	2125.45	2121.86	2123.28		2121.70	2124.62
Feb. 28.			2122.30	2121.28	2124.78	2127.28	2122.42	2122.03		2122.03	2124.55
Mar. 15.			(m) 2126.20	2122.82	2123.95	2125.28	2124.45	2123.36		2122.36	2122.75
Mar. 31.			(n) 2124.80	2124.03	2124.78	2126.36	2126.20	2124.40	2131.45	2126.48	2124.15
Apr. 15.			2130.20	2123.65	2127.70	2128.95	2126.24	2124.86	2132.45	2126.03	2129.00
Apr. 30.		(a) 2128.90	2132.40	2124.99	2128.32	2128.61	2130.32	2125.95	2132.90	2128.36	2128.42
May 15.		2129.70	2130.20	2124.78	2126.65	2129.78	2129.03	2126.70	2130.70	2128.28	2130.00
May 20.	2130.64										
May 23.	2130.00										
May 31.		2128.90	2129.30	2124.95	2125.28	2129.45	2127.45	2128.49	2127.53	2128.03	2130.55
June 15.		2130.00	2127.20	2124.53	2124.78	2127.11	2127.32	2227.99	2126.47	2126.61	2127.90
June 30.		2126.10	2124.60	2122.82	2123.11	2125.53	2125.61	2127.11	2126.28	2126.45	2125.87
July 3.	2128.24		2122.70	2121.45	2121.95	2124.36	2126.11	2126.70	2125.82	2126.32	2126.00
July 15.		2123.60									
July 24.	2123.64		2121.50	2120.82	2121.11	2124.36	2125.86	2126.70	2124.24	2125.45	2126.00
Aug. 5.	2122.55										
Aug. 15.		(c) 2121.40	2120.70	2120.28	2120.82	2123.95	2125.36	2125.95	2123.49	2124.95	2125.80
Aug. 23.	2121.47										
Aug. 31.		(d) 2120.90	2120.30	2120.03	2120.36	2123.70	2124.86	2125.14	2122.72	2124.12	2125.40
Sept. 15.		(e) 2120.70	2120.10	2119.95	2119.95	2123.36	2124.45	2124.28	2128.92	2123.32	2123.70
Sept. 30.		(f) 2120.70	2120.00	2119.95	2119.95	2122.28	2123.78	2123.40	2121.70	2122.20	2122.30
Oct. 15.		(g) 2120.50	2120.00	2121.20	2119.99	2121.53	2123.70	2123.07	2121.45	2121.65	2121.60
Oct. 31.		(h) 2121.00	2120.10	2121.11	2120.20	2122.95	2123.90	2123.82	2121.36	2122.70	2122.90
Nov. 15.		(i) 2121.90	2120.00	2120.86	2122.70	2120.82	2123.90	2123.86	2121.86	2121.40	2124.15
Nov. 30.		(j) 2122.30	2120.40	2121.03	2125.07	2120.86	2123.20	2128.95	2125.36	2122.95	2122.30
Dec. 15.		(k) 2123.40	2120.50	2120.86	2124.61	2121.28	2122.78	2126.53	2124.40	2122.30	2122.80
Dec. 31.		(l) 2122.70	2120.60	2120.78	2126.20	2121.61	2122.15	2123.51	2122.78	2122.50	
		(d) Aug. 29	(g) Oct. 2	(j) Nov. 29	(m) March 13				(p) Feb. 12		
		(e) Sept. 9	(h) Nov. 7	(k) Dec. 14	(n) March 29						
		(f) Sept. 29	(i) Nov. 13	(l) Dec. 30	(o) Jan. 13						

Filed December 12, 1912. A. L. Richardson, Clerk. [219]

Plaintiff's Exhibit [Testimony of C. S. McCalla in Cause Washington Water Power Co. vs. Charles Waters et al.]

C. S. McCALLA, called and sworn and examined by Mr. GRAY, testified as follows:

Direct Examination.

Q. State your name, residence, and occupation.

A. C. S. McCalla; Spokane; hydraulic and electrical engineer.

Q. Where were you educated?

A. Lehigh University.

Q. When did you graduate? A. In 1896.

Q. Since that time what experience have you had in the practice of your profession?

A. I have had experience in Philadelphia, New York, *Schnectachdy*, Sidney, Australia, and in Spokane and this vicinity.

Q. In what lines?

A. Engineering construction work, and business matters.

Q. What kind of engineering construction?

A. Hydraulic and electrical.

Q. In what capacity?

A. Assistant general manager of The Washington Water Power Company.

Q. How long have you been connected with The Washington Water Power Company?

A. Since September, 1903.

Q. Are you acquainted with the water power which has been developed at Post Falls, by The Washington Water Power Company? A. I am, sir.

Q. Were you acquainted with it before the present development? A. Yes, sir.

Q. State what its condition was prior to the construction of the dam which is now maintained at Post Falls. [220]

A. Prior to present dam of The Washington Water Power Company there were timber crib dams installed there built by Frederick Post in the three main channels of the river.

Q. What was the elevation of the dam installed by Frederick Post?

A. The Post dam in the north channel, the crest of the dam was at an elevation of the mean sea level 2116.5 feet. The dam in the middle channel was at a slightly higher elevation; the dam in the south channel was higher still.

Q. Who prepared the plans generally, of the development of the power as it is at present maintained? A. I had direct charge of that work.

Q. Will you describe the present dam?

A. The present dam consists of solid concrete structures; the dam in the north channel is the same elevation exactly as the old Post dam and in addition to the dam has been a large excavation made at right angles to the dam and eight large gates have been installed there to facilitate the discharge of the water at flood seasons. The north channel as at present constructed will pass about 94 per cent more water, the same elevation of the water, than the old Post dams. Taking the works as a whole, the present dams in the three channels will pass about 43 per cent more water for the same elevation than the

old Post timber cribs.

Q. You say at right angles to the dam you have 8 gates?

A. Yes. Seven of those gates are 21 feet long, and one 12 feet.

Q. They reach to a lower elevation than the top of the old Frederick Post dam?

A. Yes, much lower.

Q. What have you in addition to those gates for the purpose [221] of controlling the water?

A. In the south channel we have six gates in addition to the spill-way over the crest of the dam. In the middle channel we have tubes for furnishing water—steel flumes they are—for furnishing water to the hydraulic turbine water wheels.

Q. In what channels do you control the water?

A. We control the water in all three channels; the north channel, however, being the one which is used in seasons of the year other than low-water seasons.

Q. What other gates besides the six gates in the north—eight gates—have you in the north channel?

A. We have two bear-trap gates, each 53 feet long. We have another gate what is known as mill sluice—small gate—which furnishes water to the Cable Milling Company.

Q. Describe the bear trap gates.

A. The bear-trap gate is a device for closing an opening; it consists of three timber leaves which are hinged together. There are two fixed hinges which fasten the up and down stream leaves to the concrete dam and two movable hinges which fasten the leaves at the movable ends and the gate is open when the

leaves are collapsed. At that elevation their crest, when collapsed, is at the same elevation as the old Post dam in the north channel.

Q. When they are up, what is the elevation of the top of the bear-trap gate?

A. The elevation when the gate is up, or raised, is 2126.5 feet above mean sea level.

Q. What is the purpose in having these bear-trap gates and in having the other eight gates you speak of and in having the gates in the south channel?
[222]

A. The purpose of the gates is twofold; first, to afford a free flow of the water at flood season; second, to store water to a limited depth, six and one-half feet, approximately, on lake Coeur d'Alene, for summer or low-water seasons and conserve the water which would otherwise go to waste.

Q. How is that water conserved and how are the gates operated by you—I don't mean mechanically—?

A. When the flood waters in the spring are subsiding when the level of the lake gets to an elevation below 2127 above sea level approximately, between 2126.5 and 2127 the gates are gradually closed—start in with one gate and close them day by day as the water recedes. When they are all closed the water is at an elevation of flush with the top of the gate which is 2126.5.

Q. What is the purpose in holding the water at that elevation?

A. The purpose is to conserve the water from going to waste with the spring flood and use it during

the period when the natural flow is deficient. We therefore take it and get useful energy out of it instead of having it go to waste down the river.

Q. What is a spill-way?

A. A spill-way is a term used to designate that part of the dam or flume which is used for discharging water over it.

Q. Is your dam in the north channel in which the bear-trap gates are situated designed for a spill-way?

A. Bear-trap gates are not designed to have water flowing over them.

Q. How do you regulate it there?

A. If the water begins to rise above the crest of the bear-trap we start and open some of the other gates and when the other gates—when the capacity of the other gates has been [223] exhausted we then collapse the bear-trap and let the water flow through the sluices.

Q. In other words, you don't permit the water to flow over the top of the bear-trap but control it by the use of your sluice-gates and by collapsing—

A. We do not, sir.

Q. The gate you speak of in the south channel?

A. Their purpose is identical with the other gates. They are opened at flood-water season. If we cannot control the level in the north channel. They are simply supplementary gates.

Q. At what elevation when the bear-trap gates are out about do hold that water?

A. We hold the water to the top of the gates—flush with the top of the gates 2126.5 feet.

Q. What is the effect upon the water of the amount

—height of the water caused by the construction of the present dam at Post Falls as compared with the condition which existed prior to the construction of the present dam and while Post's dams were there?

Mr. KEARNS.—Where do you mean—what effect where, at the dam?

Mr. GRAY.—Yes, at the dam.

(Question withdrawn.)

Q. What effect has the present dam upon the level of the water in Spokane River as compared to their levels which would exist under the old conditions?

A. It has the effect in flood water season of lowering the natural level and in the low water season of raising it to some extent.

Q. What effect has it upon the levels of the water in the Coeur d'Alene Lake? [224]

A. It has practically the same effect.

Q. What do you mean by practically?

A. Of reducing the level at flood season and raising it slightly in low water season.

Q. Are you familiar with the St. Joseph and Coeur d'Alene Rivers—with the Coeur d'Alene River? A. Yes.

Q. What kind of a river is it?

A. It is a river that in the summer time is very sluggish stream—practically slack water.

Q. At other seasons?

A. At other seasons—at flood season the current is much swifter and the river rises beyond its banks and floods the surrounding land between the banks and the hillsides.

Q. What effect has the dam as now maintained and

constructed under your supervision upon the level of the water in the Coeur d'Alene River?

A. It has the effect at flood season of lowering the levels—generally has the effect of reducing the quantity or acreage which is annually overflowed at flood season, and during low water seasons it has the effect of raising the water to the extent of the raise in the gate above low water level.

Q. When you have your gates all closed and the water at Post Falls is at an elevation of 2126.5 above mean sea level, what is the elevation of the surface of the water in Coeur d'Alene Lake?

A. There is no appreciable current of the water in the lake or the river which means there is a uniform level—practically level line.

Q. What is the elevation of the water in the slack water portion of the Coeur d'Alene River? [225]

A. The same elevation as the water at the dam. Slack water—no appreciable velocity.

Q. How do you know that is a fact?

A. You can tell by looking at it. There is absolutely no current there. Logs will float with the breeze.

Q. It is a physical fact?

A. Physical fact, yes—could not be otherwise.

Q. What season of the year is it that the water is low naturally, in Coeur d'Alene lake and the Spokane River?

A. Low water season extends from the middle of July depending on the season—October up to February; the low water season, it is lowest in September and October as a rule.

Q. How much power with the present dam that you have constructed at Post Falls that you are now maintaining, do you develop with the storage reservoir which you have—which you are using, by the maintenance of the present dam?

A. With six and one-half feet of storage which the design of the bear-trap will permit storing in the lake we can develop at Post Falls, about 11,900 horse-power.

Q. During low water?

A. During low-water season.

Q. 11,900? A. 11,900.

Q. During high water?

A. We have installed about 15,000 horse-power.

Q. There is more than water enough to supply you during that period of time? A. Yes.

Q. Without that storage what horse-power, average horse-power, at low water could you develop—at average low water—I mean during those low-water months? [226]

A. Our low-water flow at Post Falls would permit us to develop about 5,650 horse-power.

Q. You say that would permit you to develop that?

A. Without any storage, yes.

Q. That is a gain of how much?

A. A gain of about 90 per cent, the difference between 5,650 and 11,900.

Q. That would be over 100 per cent, wouldn't it?

A. No, sir, 11,900, about 90 per cent more than 5,650, I think. (Figures.) Yes, I am in error, the low-water flow is 6,250 horse-power. With a storage of six and a half feet we get 11,900, a gain of 5,650

horse-power, about 90 per cent.

Q. You have been using that horse-power during the last—since the construction of the dam?

A. Yes.

Q. Where is it distributed?

A. The power is distributed to the Coeur d'Alene Railway operating between Hayden Lake and Coeur d'Alene, Post Falls, and Spokane; to the town of Post Falls, Rathdrum, Coeur d'Alene City, and different mining companies in the Coeur d'Alene Mining District and for lighting the towns on Canyon Creek, Burke, Mace, Gem, Black Bear and the town of Mullen, Wardner and Kellogg. Power is also used on or will shortly be for pumping, irrigation in this county—Kootenai.

Mr. KEARNS.—I move to strike out that voluntary statement of the witness. Not supporting any allegation of the complaint, and it is not responsive to the question asked him.

The COURT.—It may stand.

Exception. [227]

Mr. GRAY.—How much power is used by electric railroad of which you have spoken?

A. The Coeur d'Alene railway uses between 1300 and 1400 horse-power. I think their last bill, as I remember it, was in the neighborhood of about 1380 horse-power and steadily increasing.

Q. How much horse-power is used by the mines, purchased from you by the mines and mining interests, for use in Shoshone County?

A. That amount varies for different seasons of the year. We furnish, as shown by our bills in the past

year a total of 8600 horse-power. We have actually furnished from our Post Falls plant 11,000 horse-power.

Q. At one time? A. At one time, yes.

Q. Does the amount which you are called upon to furnish to those purchasers of power in the mines vary from day to day and month to month?

A. Yes, it does vary.

Q. And from year to year? A. Yes.

Q. How much of it is used for lighting purposes to Post Falls, Coeur d'Alene and Rathdrum?

A. I don't know exactly, but I should think Post Falls, Rathdrum and Coeur d'Alene would take in the neighborhood of from five to seven hundred horse-power.

Q. I will ask you what the facts are as to the demand for power for various purposes increasing in Idaho.

A. The demand is steadily increasing. Our ratio of increase varies from twelve and one-half to thirty-three and one-third [228] per cent per annum. About 16 per cent at the present time.

Q. How is this power distributed from the plant at Post Falls?

A. Coeur d'Alene Railway the power is furnished direct from the plant to their transmission line. The power for Coeur d'Alene, Post Falls, and Rathdrum is similarly furnished from the plant to the consumer's transmission line. The power to the mining district is furnished them delivered at their works over our own line.

Q. How many miles of transmission line has The

Washington Water Power Company now in operation in Idaho?

A. I have got the exact figures somewhere. I think I gave you that memorandum that I had. One hundred and eighty some odd, as I recollect it—178.

Q. I will find it for you.

A. I think about 178 miles.

Witness excused.

Same witness recalled.

Mr. GRAY.—In designing and constructing the plant at Post Falls—dams at Post Falls, and your power plant, why did you fix the elevation for the top of the bear-trap gates at an elevation of 2126.5 feet above the mean sea level?

A. That level was made—was determined upon after a *recognizance* which I made of the lake and tributaries as a reasonable limit to which we could go and get an economical development.

Q. In determining upon that elevation you exercised the experience and study which you had given to electrical construction and engineering? [229]

A. I did, sir. It was made after careful *recognizance* of the situation.

Q. With a view to the most practical and best suited development of the power there? A. Yes.

Q. Did you have in view the question of the most reasonable and proper conservation of the water for the purpose of providing power during the entire year? A. We did, sir.

Q. After your *recognizance* and consideration given to the matter, you determined upon that elevation as the proper elevation for the most feasible

and practicable development of that power?

A. Yes, sir.

Q. And in the development of that power for the purpose of generating electricity for the purposes to which it was to be devoted, did you regard that elevation as reasonably necessary to the proper development of that power? A. It was, sir.

Q. The elevation you have testified to, the elevation of the top of the bear-trap when raised as being 2126½ feet you have fixed that as the point at which the dams are designed to hold and conserve the water. In this complaint in this action the land at an elevation of 2128 feet is sought to be condemned. Why do you consider it proper or necessary at all to have the land to that elevation?

A. We have to have some limit to the reservoir—considered that would be liberal—proper elevation to go to; going to that elevation would be on the safe side in taking all of the land that could possibly be affected and more.

Q. Do you regard it reasonably necessary to go to that elevation?

A. I think we were liberal in going that high.

Witness excused. [230]

C. S. McCALLA recalled.

Mr. GRAY.—Q. Have you a photograph showing the dam and holding works at Post Falls?

A. Yes, sir.

(Photograph marked Plaintiff's Exhibits "B," "C," "D," "E," "F" and "G.")

Q. I will ask you to take them in their order and state what they are. (Hands witness photograph.)

A. "B" is a photograph of part of the controlling works or dam in the north channel of the Spokane River at Post Falls. It shows the bear-trap gates in the raised or closed condition. To the left of the photograph is shown the flow of water which comes from the tainter-gates which are placed at right angles to the bear-trap. The photograph was taken at the season of the year between high and low water—slightly above low water. Part of the water was passing through the tainter-gates. Exhibit "C" shows a view in the same channel at Post Falls taken at a period of flood water. It shows the situation at that time with all of the gates open. It might be well to state that this photograph was taken before the previous photograph, Exhibit "B," and shows the bear-trap as originally constructed and one gate. For convenience in operation it was later split into two gates by a small pier in the middle; it operates more readily that way.

(COURT.) Is the bear-trap in this picture as low down as it can be?

A. Yes, there are two positions. It is either all the way down or all the way up. It is all the way up in the first one and all the way down in the other. The water is controlled by means of the tainter-gates up to their limit. When the water gets up to the height of the top of the bear-trap then those gates are opened. Those gates are opened, and when the water gets up to the top of the bear-trap and has a tendency to flow over the bear-trap, it is opened to prevent the water flowing over it. The bear-trap is not designed to have any water flowing over it; in

fact, [231] it would be a dangerous condition to permit. Exhibit "D" is a photograph taken in the south channel of the Spokane River at Post Falls and shows the gates and structure in that channel at a period of flood water, the gates being wide open and water flowing through them. Exhibit "E" is a photograph taken in the middle channel of the river at Post Falls looking down stream toward the power station. It shows where the water enters through the racks and then into the steel flume and the water-wheel. Exhibit "F" is an interior view in the power station. The station is in the middle channel. The water enters from the Fore Bay shown in the previous picture coming down to the 11-foot steel flume into the water-wheel. The photograph shows five generating units. The water-wheels are 3260 horsepower each and they are directly connected to the electric generator. Exhibit G is a view taken in the middle channel looking upstream and shows an exterior view of the power station. The white water to the right of the picture is a small spill-way used for sluicing off rubbish and trash that may accumulate above the racks.

(Mr. GRAY.) I offer these photographs in evidence.

A. The photographs are taken by Mr. Tolman, photographer of Spokane office in the Golden Gate Block.

(Mr. KEARNS.) We object to those as incompetent, irrelevant and immaterial to the issues now before the Court in this case.

Objection overruled.

(COURT.) They will be admitted.

Exception.

(Mr. GRAY.) They are offered for the purpose of explaining the conditions there in connection with the testimony.

Q. How many mining companies in the Coeur d'Alenes were furnished [232] electric power during the past year, 1909?

(KEARNS.) Objected to. Same objection we have made heretofore.

Overruled.

Exception.

A. We have been furnishing power to 28 companies, not all of which are mining companies.

(Mr. GRAY.) Q. I was asking for mining companies.

A. There are 25 mining companies, two of which are the Frisco and Pittsburg, have not been using any power in the last year. With those two exceptions leaving in the neighborhood of 23.

Q. What amount of power is furnished—what is the range of the amount furnished, what is the lowest?

A. I cannot give the lowest exactly but it will be in the neighborhood of five or six thousand horsepower.

Q. The lowest to any one company?

A. I cannot tell exactly but it runs down to a very small amount. Some of the small prospects, the American, for instance, used about one and one-third kilowatts, that is in the neighborhood of two horsepower.

Q. And from that up?

A. From that up in the neighborhood of 3,000 horse-power each. There are a number of small ones that run two and three.

Q. Without going into details about how much has been invested in the construction of the dam at Post Falls and the generating works, pole-lines, and so forth?

(KEARNS.) Objected to as irrelevant and immaterial. To prove the right of the company, to take and condemn the land of the defendant, or any necessity for taking and condemning.

(COURT.) I am not prepared to say that that would not be correct, still I desire to hear that as well as a number of other matters [233] that will be objected to on one side or the other. Overruled. Exception.

A. I could not give you the exact amount but it is quite a considerable sum, in the neighborhood of a million dollars—very close to a million dollars, might be a little above or a little under.

(Mr. GRAY.) Have you any data or curve showing the elevation of the water in the Coeur d'Alene lake, Spokane River, and the mouth of the St. Joe River and Coeur d'Alene? A. We have, sir.

Q. Will you get that?

(Witness goes to table to get papers.) Paper marked Plaintiff's Exhibit "H."

Q. This Plaintiff's Exhibit "H" which I hand you is what?

A. This print contains a number of curves in different colors, and indicates the level of the water

in Coeur d'Alene lake for the different years from 1897 up to the latter part of 1909, inclusive, with the exception of the early part of the year 1903. I did not get the record for that.

Q. What are the words and figures on the bottom?

A. The figures on the bottom indicate the days and months of the year. The figures on the vertical lines to the left and right of the sheet running from zero to 14 indicate feet on the gauge.

Q. What gauge?

A. The gauge at the mouth of the St. Joe River maintained by the St. Joe Boom Company. The figures in the parallel columns represent feet above the mean sea level which indicates the water levels as taken from the gauge in Coeur d'Alene established by the United States Geological Survey.

Q. That is what is commonly known as the Rosen gauge? A. Yes. [234]

Q. At the Rosen boathouse? A. Yes.

Q. At the dock? A. Yes.

Q. From what source did you get the data on which these curves were platted? First, the key.

A. The key at the left-hand side of the map shows the years to which the different colored curves refer. The full (flow) lines, the actual reading of the water levels as taken by actual reading. The dotted lines cover the calculated levels from the year 1897 to 1903.

Q. From what are they calculated?

A. The calculated readings are derived from the known lake levels and known river flow; previous to 1903 there were no readings taken on the lake. We

were able to get, at the suggestion of Mr. Stevens, the engineer in charge of the Portland office of the United States Geological Survey, who was sent up here some time ago by the Government in connection with the overflow of the St. Joe lands—he suggested it would be desirable to ascertain approximately the lake levels in previous years and stated it could be done very closely. We followed that suggestion and secured the dotted curves.

Q. From the flowage of the Spokane River as read by the Government?

A. From the known flow or volume of water in the Spokane River, which were taken from the gauging station used by the United States Geological Survey in Spokane. The said survey was done by their men.

Q. Did you check the curves derived from the flow with the known lake levels as secured from Mr. Bloom at St. Joe sorting works? [235]

A. We did, sir. The readings which we took from the Rosen gauge, Coeur d'Alene City, platted them on the sheet-tracing cloth—and then we platted the curves taken by Mr. Bloom of the St. Joe Boom Company at the mouth of the St. Joe River on another sheet of tracing cloth and the readings of Mr. Bloom and Rosen for the same year were superimposed, one sheet upon the other and we found the readings coincided remarkably well.

Q. Were those curves compared at the suggestion of Mr. Stevens?

A. They were submitted to Mr. Stevens and I have a letter from Mr. Stevens stating that they agree very closely with his own calculations. As an

indication of the closeness of them, there were later found some readings published by the Geological Survey in the water supply papers published by the Government in Washington for the year 1899—part of that year—and which are shown in the circles here. That same year shown in this brown dotted line. They are within a very few inches of the readings shown by the Government water supply paper.

Q. In the spaces from right to left on the plat the plat is divided into days, is it not?

A. Horizontal spaces, each small space represents one day, the large spaces represent ten days periods. The vertical scale is divided similarly, the small divisions being one tenth of a foot—being ten divisions to a foot.

Q. That was platted under your supervision?

A. Yes.

Q. As correct as is possible to plat it? A. Yes.

(Mr. KERNS.) Opposite the year 1907 there appears to be a purple line? A. A red line.

Q. Commencing practically at the 9th of July and passing on down to November; that shows the elevation the water was raised by your [236] dam in 1907? A. From the 17th of July it does; yes.

Q. And the next line, the blue one, for about the same period in July shows the elevation it was raised in 1908?

A. That shows the lake levels in 1908.

Q. The one in black? A. 1909.

Q. Shows it still higher during a portion—

A. Yes, it gets down below it. It crosses the pre-

vious year, about the 5th or 6th of October.

Q. What is this line here dotted black?

A. This dotted black line is the year 1900.

(Mr. GRAY.) We offer that in evidence.

(No objection.)

(COURT.) It may be admitted.

(Mr. GRAY.) Are you familiar with the cost of generating steam power? A. I am, sir.

Q. And in this territory? A. Yes.

Q. And the city of Spokane? A. Yes.

Q. Where railroad rates are quite as favorable as here? A. Yes.

Q. What is the cost of generating electric power by steam per kilowatt here?

(Mr. KERNS.) Objected to as incompetent, irrelevant and immaterial to any issues now before the Court.

(Mr. GRAY.) I am inclined to think that is correct but counsel seemed to think it was not yesterday.

(COURT.) I am inclined to take that view myself, but he may answer.

Exception. [237]

(Mr. GRAY.) He asked a number of questions concerning it.

A. Under very favorable conditions as to modern and efficient plants good facilities for handling it, steam power here would cost at the power-house switch-board in the neighborhood of one and one-half to two cents per kilowatt hour. The worst feature of the steam situation out here, however, is the difficulty and the uncertainty of securing coal.

It is plentiful at times and at other times—which happen to be the time you need it most—it is difficult and sometimes impossible to get it on account of car shortages or railroad tie-ups or mine tie-ups.

Q. What is the price in Coeur d'Alene mining district at which you are selling electrical power?

A. In the neighborhood of three-quarters of a cent—.0776 cents to be accurate.

(COURT.) What was the cost of producing electric power by steam?

A. From one and one-half to two cents—switchboard.

(Witness excused.) [238]

C. S. McCALLA, recalled for cross-examination and examined by Mr. KERNS, testified as follows:

(GRAY.) There is one more question I desire to ask Mr. McCalla. Q. Do you know, that is, from your experience and exercise of your judgment, consider 2,128 feet is the reasonable, proper and necessary level which the Washington Water Power Co. should acquire for the use of a reservoir?

A. Yes, sir, it was determined on that basis.

(KERNS.) I understood you to say that prior to the construction of the Post Falls Dam you had made an inspection of the land that would be affected by the overflow caused by the raising of the dam 10 feet; is that correct?

A. You misunderstood the statement. I said I made a *recognizance* of Coeur d'Alene Lake and tributaries.

Q. Don't you call that the Coeur d'Alene?

A. Yes, Coeur d'Alene River, St. Joe River.

Q. When you made that *recognizance* what did you find in the Coeur d'Alene Valley?

A. I found Coeur d'Alene River with banks rising rather steep forming a narrow strip of rather higher ground bordering the river, the land sloping back and lower covering quite an area up to the side hills. This intervening land between the hills and the river bank and generally along the river, in the lower reaches especially was covered with water, it was a swampy, marshy nature, the water on that swamp being from 2 to 6 feet in elevation higher than the river. I have since found that the same condition existed in the St. Joe, on several occasions since.

Q. Did that condition exist where drain ditches had been excavated from the meadows out to the river?

(GRAY.) Objected to as improper cross-examination, immaterial and irrelevant; he said he made a general *recognizance*. [239]

Overruled. Exception.

A. Where *there* ditches were cut through and the water had free access to the river the water, of course, in the ditches was on the same level as the water in the river. The whole country is flooded in the flood seasons varying from 5 or 10 up to 18 feet in depth.

Q. What season of the year was it that you made this *recognizance*?

A. I was there in April, 1905.

Q. This condition existed on both sides of the river, did it? A. Yes, sir, places both sides.

Q. Can you give us an estimate of the width of the valley?

A. No, sir, I could not; the map shows it there.

Q. How far up the river did that condition exist from Coeur d'Alene Lake?

A. I went up the river almost as far as the county line.

Q. Shoshone County line? A. Yes, sir.

Q. A distance of about 25 miles was it?

A. It is shown on the map, I didn't measure the mileage.

Q. Did that same condition exist in the St. Joe River?

Objected to as improper cross-examination, incompetent, irrelevant and immaterial.

(COURT.) I do not remember positively his answer, but my impression is he answered as to Coeur d'Alene River.

(KERNS.) He made the statement covering the river and lake.

(COURT.) You may answer it anyway. Exception.

(KERNS.) What is the distance or area of on the St. Joe River up as far as the rise in the level of the water affects it?

(GRAY.) Objected to as improper cross-examination, irrelevant, and immaterial. He did not testify that that *recognizance* he ascertained or determined that, he don't know anything about the raising of the water in the St. Joe River.

(COURT.) He can answer. Exception. [240]

A. No estimate of acreage was made at that time.

(KERNS.) Can you give us the approximate areas of Lake Coeur d'Alene in miles?

(GRAY.) Objected to as improper cross-examination.

Overruled. Exception.

A. Somewhere in the neighborhood of 45 square miles—40 or 45.

(KERNS.) Q. What is the length of the Spokane River *deom* Lake Coeur d'Alene to the dam at Post Falls?

A. Somewhere between 8 and 10 miles.

Q. What is the length of the Coeur d'Alene Lake?

A. I think it is about 25 miles up to Harrison—considered about that; I never measured the distance.

Q. Prior to constructing this dam did you make any estimate of the area of farm land and meadow land that would be overflowed by reason *or* raising the water 10 feet at Post Falls?

(GRAY.) Objected to as improper cross-examination, irrelevant and immaterial.

Overruled. Exception.

A. I determined from the *recognizance* I made that no material amount of land that was worth anything would be affected.

(KERNS.) Q. By land worth anything what do your mean?

A. By land that is not worth anything I mean swamp land—marsh land.

Q. Do you consider land that will raise from one to two tons of hay per acre would come within that class?

(GRAY.) Objected to as improper cross-examination, no foundation laid for the question.

Overruled.

(GRAY.) Immaterial and irrelevant. Exception. [241]

A. I would not consider land worth much that would raise a ton of sedge hay an acre on occasional years.

(KERNS.) In the month of April, when you made this inspection there was not any hay there to be seen; you could not see the character of the land for agricultural purposes, could you?

A. Yes, I could see pretty well.

Q. Did it have any blossoms out at that time of the year?

A. No, no blossoms out; you could see the stubble—wire grass or eel grass.

Q. Did you examine that grass?

A. Yes, I took a sample of it—a number of samples in fact.

Q. Spokane River from Lake Coeur d'Alene to Post Falls dam is a navigable stream, is it not?

A. It is now, yes.

Q. What sized stream is it now?

A. It is quite a wide stream—sluggish.

Q. Give the approximate width of it—approximate average width.

A. I could not tell you that for naturally it varies in width.

Q. Can't you approximate it?

A. It has considerable sectional change, the velocity is very low indeed.

Q. Is it not a fact that it is a stream 500 or 600 feet wide? A. Yes, I think it was.

Q. Up to 30 feet in depth?

A. In places it is 30 feet in depth.

Q. In places 500, 600 or 700 feet in width?

A. At the outlet of the lake where the lumbermen have driven logs [242] it has been so shallow that the logs grounded there and formed a jam; had to get in with teams and snake them out.

Q. When was that?

A. That, as I recollect it, was in either 1905 or 1906. I have forgotten the time—I recollect it was 1905.

Q. Lake Coeur d'Alene is a navigable body of water, is it not? A. In places, yes.

Q. Coeur d'Alene River is navigable from the lake about 25 or 30 miles, is it not?

A. For light draft boats.

Q. The St. Joe is also navigable? A. Yes.

Objected to as immaterial.

Overruled. Exception.

Q. These rivers are navigable for all boats that navigate Coeur d'Alene Lake, are they not?

A. They are to a certain extent. I understand they have considerable difficulty at times, or used to, at the low-water stage, in getting the larger boats up the river.

Q. Which larger boat?

A. Some of the larger lake boats.

Q. Do you know any of them?

A. The "Idaho," for instance.

Q. How much draft has the "Idaho?"

A. I never measured it.

Q. Don't know anything about it? A. No, sir.

Q. Did you make an estimate of the electrical power you could generate by means of the Post Falls dam prior to the construction of the dam?

A. Yes, sir.

Q. What amount did you estimate you could develop? [243]

A. The amount I testified to this morning.

Q. I would like you to give me those figures. My figures may not be correct. I understood you to say you could develop 11,900 horse-power in low water.

A. You misunderstood me.

Q. That is what I want; I want to be corrected.

A. At low-water flow we can develop 6,250 horse-power without any lake storage.

Q. How much horse-power can you develop with your present dam, bear trap and headgates?

A. About 11,900 with lake storage, low water.

Q. 11,900. How much can you develop at high water with lake storage.

A. Lake storage don't cut much figure at high water; we get more water than we have capacity—water wheels; we have installed five units, 3,260 horse-power capacity.

Q. You have sufficient water there to run those generators to their capacity?

A. At the present time, yes.

Q. That is over 16,000 horse-power, is it not?

A. Yes, about that; about four times the minimum flow in the river now.

Q. What do you call minimum flow?

A. The minimum flow without storage we find is about 1,200 second feet at Post Falls and call it about 4,800 second feet at the present time.

Q. When did you take that measurement?

A. The figure is taken from the Government gauge and curves taken by the Government reading taken by the Geological Survey at Spokane.

Q. You didn't take that?

A. No, sir, it was taken by the Government.

[244]

Q. Your information about the minimum flow in the river you are giving the figures prior to the building of the dam, are you? A. Yes.

Q. When did that amount of water flow there, minimum flow, what year?

A. It flowed about that minimum in 1905 and 1906 as I recollect it, extending over a considerable period.

Q. Both of those years? A. Yes.

Q. Do you know that of your own knowledge?

A. Yes, taking the curves.

Q. When was that dam completed?

A. At Post Falls?

Q. Yes.

A. The bear-trap was raised about the last of August, in 1906; I think it was the 30th of August.

Q. And the flow, did you take those measurements between Post Falls and Lake Coeur d'Alene? Did you take those measurements above or below the falls.

A. That is the Government gauging station at Spokane.

Q. You were not taking the measurements between Post Falls and Lake Coeur d'Alene?

A. No, sir.

Q. You don't know what that is?

A. We know in a close way the relative flow from Post Falls to Spokane at that stage is about 200 cubic feet per second greater than Post Falls.

Q. You have 200 feet per second over this 1,200?

A. No, sir, the 1,200 is the flow at Post Falls.

Q. How do you know?

A. We know from the flow at Spokane; we know the flow at Spokane as we have figured it carefully from all the information we could [245] get that the flow at Spokane at that stage is about 200 feet greater than the flow at Post Falls.

Q. The flow at Spokane is greater than the flow at Post Falls? A. Yes.

Q. How do you account for that?

A. That is accounted for very easily. There are a number of lakes which are tributary to the Spokane River between Post Falls and Spokane, Hayden Lake, probably the underground flow comes in there and a number of other lakes, Sucker, Liberty, all those lakes have an underground flow and that goes through the gravel of the valley.

Q. Do you know that?

A. Yes, I practically know that; it is a matter of scientific knowledge.

Q. How do you know it? Where is the outlet to Hayden Lake?

A. We don't know. We do know there is an underground flow throughout the valley of the Spo-

kane River. At Post Falls we had a rather interesting phenomenon there in the development of the work. We had in the middle channel of the river a coffer dam off so in the bed of the river was no water. We did this by means of three coffer dams, the two upstream, one being in the middle channel, the other being in the south channel, the third coffer dam being downstream and across the junction of the two channels; the water against the upstream coffer dam was perhaps 10 or 15 feet deep; the water against the lower coffer dams was 6 feet deep; the coffer dams were not tight; they were leaking considerable; in fact we had installed a large pumping plant to pump out the intervening part of the river bed which we wished to keep dry to work on, and after pumping this arm of the river out commonly known as Boone's Lake we found we did not have to use the pump at all; [246] the water seeping through and pouring through in a considerable stream and ran away and seeped away and disappeared although the water 20 feet from it in the main river was six feet deep.

Q. Would it not be just as well to presume that underground seepage from Coeur d'Alene Lake furnished that supply of water as from Hayden Lake or lakes more distant from the river?

A. No, sir, from the geological formation of the valley it has been determined that there are two main ridges of rock across the valley, one granite ridge at Post Falls which is the real formation of the Falls, and another, a soft ridge at Spokane. These two ridges have the effect of deflecting the water to the surface. The flow at Greenacres for instance, which

is between Spokane and Post Falls is very much less than the flow either at Spokane or at Post Falls.

Q. How far distant is Hayden Lake from Post Falls?

A. In the neighborhood of about 11 miles, I should think—I guess it is more than that.

Q. What was the maximum—

A. A good deal more than that, about 15.

Q. What is the maximum flow of the Spokane River above Post Falls prior to the building of the dam?

(Mr. GRAY.) Object to the maximum flow as having nothing whatever to do with this.

(COURT.) I don't know what counsel's purpose is.

A. The maximum flow of the river at Post Falls and Spokane are probably not very far apart, so that the maximum flow as taken from the Government gauging station at Spokane would be a very fair value at Spokane, the underground flow at that time being a very small portion relatively of the entire flow. I should think that the flow there would be the same as the Government record shows it is at Spokane. [247]

Q. What is that?

A. The highest flow, I think, we have on record—I can look at some data I have here and give it to you pretty accurately—pretty closely. (Shows witness map.) The maximum flow is about 33,000 second feet since 1897. That occurred in 1897. The flow in 1894 was materially higher than that. The Government gauging station was not in existence at that

time but from data we have from our dam in Spokane there was probably at least 10,000 second feet more than in 1897.

Q. How much electrical power—horse-power—are you furnishing to mines in Shoshone County during 1909?

A. I think I stated that this morning or yesterday. We furnish from our plant at Post Falls the maximum of 11,000 horse-power at one time.

Q. At one time?

A. At one time. From our building records we were actually paid for about 8,600 horse-power. The amount that we furnish from Post Falls, for certain reasons would be less than what they actually paid for.

Q. How much power did you furnish the Bunker Hill & Sullivan that year?

A. We furnished the Bunker Hill & Sullivan—

(Mr. GRAY.) This may be a matter of information but I don't think it is material.

(The COURT.) It is material; you went into it on direct examination.

A. 190 kilowatts.

(Mr. KERNS.) How many horse-power is that?

A. About one-third more horse-power. A kilowatt is about—between thirteen and fourteen hundred horse-power. That was not in 1909; that was this year, January, I think we furnished them that.

[248]

Q. In 1909? A. Nearly that much.

Q. How much did you furnish the Federal Mining & Smelting Company?

A. Between 2,900 and 3,000 horse-power.

Q. The Hecla Mining Company?

A. The Hecla we furnished 616 and three-fourths kilowatts, a little over 850 horse-power.

Q. The Hercules?

A. 433.7, a little over 500 horse-power.

Q. The Snowstorm?

A. We furnished the Snowstorm 350.15 kilowatts, about 410 horse-power.

Q. The Hunter?

A. Is that the Gold Hunter?

Q. Yes.

A. 342.19 kilowatts, about 450 horse-power.

Q. What other mines in Coeur d'Alene did you furnish electrical power?

A. We furnished to the Alice.

Q. How much?

A. The Black Bear Fraction, the Caledonia, The Great Western, the Missoula, the North American, the Rex, the Star, the Success, the West Hecla, the Page, the Butte, Coeur d'Alene, the Imperial, the Never Sweat, the American, The Copper King. We also furnished some to the Turner Lumber Company near Wallace.

Q. What is the approximate total amount furnished to those other companies?

A. The approximate total amount is about 8,600 horse-power to all of them.

Q. Those you have just mentioned; which you have not given.

A. If you will add them and subtract it from 8,600 you will about get it. [249]

Q. How much did you furnish Alice?

A. 159.10 kilowatts.

Q. How many horse-power?

A. I have got those figured in kilowatts. If you will add one-third you get the horse-power. A little over 200 horse-power. Black Tail Fraction 67.6 kilowatts, that is about 87 horse-power.

Q. Caledonia?

(Mr. GRAY.) 90 horse-power.

A. Yes, about 90 horse-power. Caledonia we furnished 20.69.

Q. The Great Western?

A. I can give those to you in horse-power, if you like. The Great Western 51.73 kilowatts. Missoula 69 horse-power—Missoula 91.52 kilowatts, about 122 horse-power. North American 15.92 kilowatts, that is about 21.2 horse-power.

Q. The Rex?

A. That was the Rex I just gave. The North American 15.92. The Rex 91.52 kilowatts. 122 horse-power.

Q. The Star?

A. The Star is 81.57 kilowatts, that is about 119 horse-power.

Q. How much of that power did you actually furnish them?

A. We furnished them every horse-power.

Q. How much did they use?

A. They used it all.

Q. They used it all? A. Yes.

Q. Did you hear Mr. Burbidge testify this morning they only used 60 per cent of it?

(Mr. GRAY.) Object to as improper cross-examination, improper question comparing his testimony with another witness.

(COURT.) He may answer as to whether he heard it.

A. You misunderstood Mr. Burbidge's answer. What Mr. Burbidge meant is that they didn't have to pay for that maximum the whole year unless they used it. The maximum amount they would have to [250] pay for for the year whether they used it or not would be 60 per cent of that. If they used it they would have to pay for the whole business.

(Mr. KERNS.) How much electrical power did you furnish in the mines of Coeur d'Alene in 1908?

A. I could not give you that off-hand. There was probably not very much difference; might have been a little bit less. There was a falling off in October panic, 1907.

Q. How much of that power generated at Post Falls are you furnishing to the cities of Post Falls and Rathdrum?

A. I think we furnish in the neighborhood of 500 horse-power; I could not say exactly, but in that neighborhood to Rathdrum, Post Falls, Coeur d'Alene City. The major part of that comes to Coeur d'Alene.

Q. And the power you furnish to the towns in the Coeur d'Alene country and Shoshone County goes through the Bunker Hill & Sullivan Company?

A. Yes.

Q. You don't have any dealings with those towns, do you? A. Not directly.

Q. You don't have any dealings with Post Falls, Rathdrum or Coeur d'Alene? A. Yes, we do.

Q. In Coeur d'Alene it is through a subcompany?

A. We furnish to the holding company here direct.

Q. Does the Kootenai Company have a franchise in this town? A. I could not tell you.

Q. Has your company, The Washington Water Power Company? A. I believe we have, yes.

Q. You have a franchise?

A. We run our pole line—

Q. That is just a right of way where your high tension line runs [251] through the city?

A. I don't know. I imagine we would have to have a franchise to get through.

(Mr. GRAY.) We don't claim we have any lighting franchise.

A. We handle it simply as wholesalers to the distributing company.

(Mr. KERNS.) I understood you to say that your increasing demand for electric power has been about thirty-three per cent per annum?

A. I said it varied from 33 and one-third to about 12. The percentage decreased very rapidly after October, 1907. Our percentage decreased in 1908—fell right off from 33 and one-third to about 12.

Q. In 1909 what was it?

A. About 16, as I recollect it.

Q. In the meantime The Washington Water Power Company has been increasing its capacity for furnishing power? A. Yes.

Q. Where? A. Post Falls.

Q. Where else?

(Mr. GRAY.) Object to that as immaterial. Certainly the company has a perfect right to increase its facilities to meet the growing and increasing demand for power. I don't see where that has anything to do with it—with this investigation.

(COURT.) It strikes me that some phases of that are very material. Whether it is proper for cross-examination or not is another matter, but I think some phases of that matter are very material. The only question in my mind is whether that should be brought in now.

(Mr. GRAY.) If there is anything the Court wants to know from Mr. McCalla and he knows it, I am willing he shall answer.

(COURT.) He may answer.

A. The Post Falls plant when built was completed in the entire installment necessary except the machinery. In other words, we had [252] to stand the interest on the entire investment whereas we could only use about one-third of it. We first put in two units. We have increased that from year to year until we now have five units; installed the last unit about a year ago. There are now five units in operation and we have room in the plant for one other which was prepared really as a spare unit. In other words, the capacity of the plant as an economical capacity is now about completed.

Q. Where else did the Washington Water Power Company increase its capacity?

A. We installed a steam relay station in Spokane, not at all to increase our capacity but so as to insure reliability on the contract we already had.

Q. Have you increased the amount of power generated at Spokane?

(Mr. GRAY.) I object to that as immaterial. The question of what power is developed in some other state.

(COURT.) It seems to me it is very material. I do not hesitate to say I desire information on it. Probably we may disagree as to its admissibility in this inquiry but it seems to me it is a proper inquiry here as to what plant this company has elsewhere and as to the effect if any that this reservoir may have upon those plants.

(Mr. GRAY.) I will withdraw the objection.

A. The company is preparing plans now for the development of the upper falls in Spokane. It will require about three years to make the development. Again through lake storage of this plant of about 12,100 horse-power.

Q. What horse-power did you have before that?

A. With a total fall developed without lake storage we will have 21,300 horse-power.

Q. That is with the gain?

A. No, that is without lake storage. 21,300.

[253]

(The COURT.) Is that the present capacity at Spokane?

A. No, sir, that is with the upper falls developed. With the storage we will get 33,400 horse-power giving a gain of 12,100. The cost of developing would be very nearly the same. There would be a slight difference and a little bit on the machinery. The actual machinery is a relatively small part of the total

cost of development.

(Mr. KERNS.) In other words, by holding the water of Lake Coeur d'Alene and the reservoir and basin, you increase the power of your Spokane plant from 21,300 to 33,400 horse-power?

A. That is it exactly. We contemplate to put in there four 7,500 kilowatt generators, 30,000 kilowatt, or a total of 40,000 electrical horse-power.

Q. Isn't it a fact that The Washington Water Power Company has another dam for the generation of power in the Spokane below the Spokane dam?

A. They have one in process of construction, yes.

Q. How long has that been in process of construction? A. Nearly two years.

Q. How near is it to completion?

A. We hope to have part of it—the first part of it—running in the neighborhood of next October or November, somewhere along there.

Q. That new dam can be added to as demand for electric power continues to grow?

A. Unfortunately, the entire dam has got to be put in the first time. In other words, the entire investment has got to be made as far as dams and buildings go.

Q. You can add to your units in that dam the same as you add to them at Post Falls?

A. Yes, the building will hold four units. The lake flowage there will give us a gain of about 5,400 horse-power.

Q. Without lake storage, how much power could you generate in that new dam? [254]

A. Without lake storage we can generate in the

neighborhood of 13,600.

Q. With lake storage how much?

A. About 19,000. This same storage affects the city of Spokane. It has a pumping plant for water supply. It also affects any power site on the river.

Q. It is a benefit?

A. It benefits it, yes, it benefits the city about 67 per cent.

Q. Is your Spokane plant connected with the Coeur d'Alene mines by the high tension transmission line?

A. Not in an ordinary operating condition. We have a duplicate pole line one of which runs direct from Post Falls, the other of which runs down to where the O. R. & N. comes into the valley and it connects there with a line running down into the Palouse country. A branch which was the original line through the Coeur d'Alene Indian Reservation and up into Coeur d'Alene. This line was built in 1902-1903.

Q. Is it connected in any manner with the Post Falls line?

A. Under ordinary conditions of operation it is held as a relay in case of trouble with the Post Falls line.

Q. In other words, you have it equipped so you can make a ready connection in the case of anything happening to the other lines to Coeur d'Alene?

A. We can make an emergency service—ready connection—and can furnish emergency service. It is not very good service. It is nearly twice as long a line and the service we would give thereby would not

compare with the shorter line. The loss also would be very great.

Q. How much of this power generated at Post Falls is used on the electrical railway line between Spokane, Coeur d'Alene and Hayden Lake?

A. We are furnishing between 1,300 and 1,400 horse-power. The last [255] month we furnished 1380-odd horse-power.

Q. Is that under contract with the railroad company? A. It is.

Q. That railroad company is also operating a railroad line into the Palouse country in Washington.

A. Yes.

Q. You also have a contract for supplying that company power?

A. They furnish their own power from their plant at Nine Mile Bridge.

Q. That is an electric railroad?

A. The Palouse line—

Q. The Company that owns the electric railway line from Spokane to Coeur d'Alene and Hayden Lake also owns the water power plant for the generating on Spokane River?

A. They have their own plant but they cannot furnish all of their power for their service. They have a contract with us for a minimum of 3,800 and they are using between 3,000 and 4,500.

Q. When was that contract made?

A. Three years ago.

Q. It is a ten year contract, isn't it?

Objection.

(Mr. GRAY.) Our rival company could compel them—

A. They certainly would compel them to.

(Mr. KERNS.) Compel them to under the contract?

(Mr. GRAY.) Objected to as being outside of the issue, immaterial and irrelevant.

(COURT.) Answer.

A. They have a contract which requires the furnishing of 3,800 horse-power; they are taking from 4,300 to 4,500 horse-power and we felt at that time that they would have the right to compel us, as a public service corporation to furnish it to them in any [256] event even while the contract is at a low price—we thought we would have to do it.

(Mr. KERNS.) Is your Post Falls power plant connected up with your system of lighting in Spokane?

A. About the same way it is to the Coeur d'Alene through the other line. There is an emergency connection.

Q. You use power generated at Post Falls in the City of Spokane?

A. At certain seasons of the year we do; certain other seasons the reverse is the fact. We have to help out Post Falls with Spokane. We have had to do that.

Q. You made the remark yesterday that the dam at Post Falls furnished water for the flume. Is it a fact that the intake of that flume is slower than the overflow of the dam?

A. The opening from our work to theirs is at the

same elevation as the overflow from our flume—

Objected to.

Q. Answer my question, please, about the intake of the flume. How much higher is the level of the overflow of the dam with their trap lowered than the intake of that flume?

A. I think it is the same elevation.

Q. You think it is the same?

A. The overflow, yes, the weir is the exact elevation of the crest of our dam.

Q. Which weir?

A. The weir of the irrigation company.

(Mr. GRAY.) That is not the one he is inquiring about; the flume that takes the water to the Cable Milling Company.

A. That's the only flume I testified to.

(Mr. KERNS.) My question was directed to the irrigation flume which you spoke about yesterday. [257]

(Mr. GRAY.) Objected to as improper cross-examination. He didn't speak of any irrigation flume yesterday.

A. You misunderstood my statement. I referred to the use of the power for pumping from this irrigation near Post Falls, the water to be taken from Hayden Lake and being pumped by electric power.

(Mr. KERNS.) Then I will ask you if there is a flume from a point just below your dam at Post Falls carrying water into the State of Washington, that flume being in the neighborhood of twelve feet wide and five feet high, what is the level of that flume as compared to the level of the overflow of your dam

with the bear-trap lowered?

Objected to as improper cross-examination.

(The COURT.) I think what he said was in regard to pumping. I don't think his statement was in regard to that, although I was at first under the impression it was.

(Mr. KERNS.) You say it was used for pumping. Have you entered into any contract for pumping? A. No, sir.

Q. The dam was not built with that in view, was it?

A. The dam was built with the view to generating power for sale to anybody who wished it at a uniform rate.

Q. As the demand for electric power continues to increase, what about the increase of the rate?

A. I suppose that the law of supply and demand will have its influence as in other cases.

(Mr. GRAY.) I object to the question of rate. I don't think it is a question that has anything to do with the effect of the dam. I move to strike that out.

(The COURT.) Motion denied. Exception.

(Mr. GRAY.) There is no such allegation at all in the complaint. I would like to have that stricken out until I can get my objection in to the question.
[258]

(The COURT.) It may be stricken out until you can object.

(Mr. GRAY.) I object to it as improper cross-examination not within the issues, not within any question to be heard or determined at this hearing, and as incompetent, irrelevant and immaterial.

Objection overruled. Exception.

(Mr. KERNS.) Then if your water supply for generating electricity is exhausted and the demand for electric power continues to increase in the proportion that it has increased in the past then your company will continue to increase the price of electric power, that price to be determined by the demand, will it not?

(Mr. GRAY.) Objected to as incompetent, irrelevant and immaterial calling for a conclusion, speculative. This witness does not know what his company is going to do in the future.

(The COURT.) I hardly think that is proper for this witness.

(Mr. KERNS.) I will ask the question in a changed form. If the demand for electric power doubled the demand you have now without any greater capacity to supply that demand, would the charge for such power be any greater than it is at present?

(Mr. GRAY.) Objected to as incompetent, irrelevant and immaterial. It is not shown that the witness controls the price or has anything to do with controlling it. Purely speculative; he don't know and can't know.

(Sustained.)

(Mr. KERNS.) Exception to both rulings.

Q. You have a supply of electric power that is not yet exhausted, have you?

A. No, sir, we are now up to our limit.

Q. When you complete the new plant the present year you will have additional power to the extent of that plant?

A. Yes, we will for a little while. We have a number of contracts, however, pending which will probably exhaust it very quickly. [259]

Q. This power from Post Falls is also used in the operation of an electric railway running in to the Palouse country, is it not? A. It is not.

Q. Has it ever been at any time? A. No, sir.

Q. Has it ever been?

A. Yes, I think on some occasions it has. It won't again, however, probably.

Q. If the mines in Coeur d'Alene should *cases* to take your power, what then would you do with it?

(Mr. GRAY.) Objected to as incompetent, irrelevant and immaterial, and purely speculative. This witness does not know and cannot know the plaintiff says it is for sale.

(The COURT.) I think I will sustain the objection to that.

(Exception.)

(Mr. KERNS.) Who is H. L. Bleecker?

A. Secretary of the company.

Q. Was Mr. Bleecker secretary of your company on the 24th day of November, 1908, if you know?

A. He was.

(Mr. GRAY.) Objected to as immaterial, not proper cross-examination; he cannot make his case on cross-examination.

(Mr. KERNS.) Is Mr. Bleecker present? Will he be called as a witness?

(Mr. GRAY.) I don't know whether he will or not.

(Mr. KERNS.) Do you know Mr. Bleecker's signature?

(Mr. GRAY.) Objected to as incompetent, irrelevant and immaterial and not proper cross-examination.

(The COURT.) It is preliminary question.

(Exception.)

A. I am not a handwriting expert; that looks like it. [260]

(Paper exhibited to witness, affidavit filed November 26th, 1909, in the case entitled 2721, Charles Water against The Washington Water Power Company.)

(Mr. GRAY.) I move this testimony be stricken out.

(Mr. KERNS.) I am going to introduce it when we come to introduce our side of the case.

Q. How much do you raise the level of the water of Lake Coeur d'Alene and Coeur d'Alene River by means of your dam at Post Falls?

A. About six and one-half feet above low water.

Q. What is the flow, the natural flow, of the water from Lake Coeur d'Alene to Post Falls in Spokane River?

A. It varies at different seasons of the year—different flow in the river.

Q. Take it at a low water stage.

A. What condition of the gates—gates open?

Q. With the gates open.

A. It would be in the neighborhood of three and a half feet.

Q. I understood you to say that when those gates

are closed, the bear-trap is up, you raise the level of the water from 2,116, and one-half to 2,126.5, is that correct? A. That's correct.

(Mr. GRAY.) What is that, from 2,116.5?

A. To 2,126.5.

(KERNS.) What is the distance from Post Falls to the Old Mission?

A. I never measured it. The map shows.

(Mr. GRAY.) Let me understand. You mean under present conditions.

(Mr. KERNS.) The distance between Post Falls and the Old Mission would be the same in the spring as in the fall.

(Question read referring to third question back.)

A. That may be or may not be correct; depends on the conditions. If the water was at an elevation just flush with the top of the gate, with the gate collapsed, it would be correct. [261]

Q. That is you mean raised?

A. No, sir, I mean open—down.

Q. It is 2,126.5 when it is down—when the gates are open—bear-trap down? A. It could be, yes.

Q. 2,126.5 when the bear-trap is closed so the water cannot pass? A. Certain seasons it is.

Q. Low water season I understood you to testify to 2,126.5.

A. That is partially correct when the water in the lake goes down to 2,127 or a little under we commence to close the gate, keeping the water at about that level. When we get the gates all closed the level is 2,126.5; it remains there a few days, but owing to the fact that we draw it out of the lake faster than it is com-

ing in the level falls as the season progresses.

Q. In the event of a storm or freshet in these mountain streams—Coeur d'Alene River and St. Joe River, with your bear-trap raised and your headgate closed, have you ever observed the effect of such on the raise of the river with the water raised to 2,126.5?

A. I have never seen any record of any freshet of that nature at the time we had our water up to that level.

Q. Were you in this country in November, 1909, when an exceptional high raise of water occurred in the Coeur d'Alene River? A. Yes, sir.

Q. Were you on the Coeur d'Alene River at that time?

(Mr. GRAY.) Objected to as not within the issues, the question of what may have occurred in connection with the use of the dam at that time. It seems to me that has nothing to do with the question of the public use or the necessity for the appropriation of this land.

(The COURT.) He may answer. Exception.
[262]

A. The flow of the river as I recollect now in November, 1909, and December is along the time that the river usually raises during the fall rain, and I presume that would be liable to occur at any time.

Q. I am asking you about a particular flood of last November.

A. No, sir, I was not on the river at that time.

Q. Since you have constructed Post Falls dam, have you made any reduction in the price of the electric power you furnished to the mines at Coeur

d'Alene or any of those towns?

(Mr. GRAY.) Objected to as immaterial and irrelevant, improper cross-examination, not within the issues in the case.

(Overruled and exception.)

A. I don't think we ever made any material change. The prices are pretty near down to rock bottom now.

Q. About to be raised, are they?

(Objected to.) (Sustained.)

Q. Have you with you any memoranda so as to show us how much power you delivered to the Coeur d'Alene mines in 1906? A. No, sir.

Q. Can you give me an estimate of the amount?

(Mr. GRAY.) Objected to as immaterial, incompetent and irrelevant, and not proper cross-examination. The question of what power might have been sent to Coeur d'Alene from Spokane in 1906 is entirely immaterial. If they are developing power in Idaho and selling it for public use in Idaho that is the question your Honor is going to determine.

(The COURT.) I am afraid the Court is going to consider some matters that counsel do not think proper in determining this. I am not prepared to say just what figure that would cut in the matter. He may answer.

(Question read.) [263]

A. No, sir, I have no memoranda. I don't recollect what the figure was.

(Mr. KERNS.) Do you know a man by the name of Al Kennedy?

A. Yes.

Q. Who is he?

(Mr. GRAY.) Object to who he is; if it is an impeaching question—

(Mr. KERNS.) It is not an impeaching question.

(Mr. GRAY.) I object to it as improper cross-examination.

(The COURT.) I think that is improper cross-examination.

(Exception.)

(Mr. KERNS.) Is it not a fact your dam, bear-traps, headgates at Post Falls constitute a complete obstruction to the waters of the river?

A. No, sir.

Q. It is not a fact? A. It is not a fact.

Q. In period of low water with that bear-trap raised and headgates set, is it possible for logs to float by your dam?

A. We have a log sluice put in there for the purpose of passing logs.

Q. Where is that? A. In the north channel.

Q. With reference to the bear-trap?

A. It is right next to bear-trap.

Q. Will you show us on these photographs where it is?

(Mr. GRAY.) Objected to as immaterial. If any logger wants to deliver logs down that river he can; there is a way by which you can have them taken down.

(The COURT.) He may answer. (Exception.)

(Mr. KERNS.) Look at Plaintiff's Exhibit "E."

A. It is the second gate from the bear-trap. It might be of interest to state that we have on a num-

ber of occasions during the [264] low water season afforded passage for logs of different lumber companies below Spokane and in a number of cases that those logs were held up by the flow of the river which at that time was greater than normal flow. We opened our gates and gave them a splash so their logs could go on down.

Q. In estimating the cost of creating electric energy, did you include the initial cost of your plant?

(Mr. GRAY.) Objected to on the ground that he has not attempted to estimate the cost of producing electrical energy. He testified what they had been selling for.

(Mr. KERNS.) Relative to the cost of producing steam electric power.

(Mr. GRAY.) Objected to. I am perfectly willing in all reasonable matters to afford your Honor information, but it seems to me that a fishing expedition is far from proper in any proceeding. What it cost the Washington Water Power Company is not a question—is not proper for investigation. These matters are matters that might be inquired into by public utilities commission, or something of that kind.

(The COURT.) The Court understood this witness to testify as to that very matter this morning. What was your statement?

A. I don't recollect what it was. I stated we were selling power in the Coeur d'Alenes to the mining companies for about three-quarters of a cent a kilowatt hour.

(The COURT.) What was the statement in regard to steam?

A. That a modern steam plant operated under favorable conditions in Spokane that the power could be generated perhaps for from one and a half to two cents per kilowatt hour.

(The COURT.) This question is not the cost of generating by water power.

(Mr. KERNS.) I asked what the basis of his calculation was as to his charges. [265]

(Question read.)

(Mr. GRAY.) Is that by steam?

(Mr. KERNS.) No, I am talking about electricity.

(The COURT.) He has not testified to the generation by water power, I think.

(Mr. KERNS.) I understood you to give an estimate of the cost of your plant at a million dollars?

A. Which one was that?

Q. Post Falls.

A. Yes, that's the power plant, in that neighborhood.

Q. The power you generate and sell from that plant, do you sell it at a uniform rate?

(Mr. GRAY.) Object to the question on the ground that it is improper cross-examination, irrelevant and immaterial, for this reason we know and counsel knows that the man who takes a large amount of horse-power naturally would be able to get it at a rate that they could not afford to deliver one horse-power for. This Court is not going to make rates in this proceeding.

(Objection sustained.)

(Exception.)

(Mr. KERNS.) I want to preserve the record and desire to ask another question on the same line.

(The COURT.) Very well.

(Mr. KERNS.) In estimating the cost of your power plant at Post Falls did you include the cost or amount of damage that will be occasioned by the overflow water caused by your dam?

(Objected to as immaterial.) Overruled. Exception.

A. The cost to which I testified did not include any cost of overflow, the original cost to which I testified. [266]

Q. Kindly answer my question.

(Question read.)

(Mr. GRAY.) Objected to. Object to interrupting the witness. He went so far—

(Answer read.)

(The COURT.) I think that answers the question.

A. That was the cost, not an estimate that I referred to.

(Mr. KERNS.) Did I understand the Court to rule that we were not to be allowed to ask the price they charge for electric power to the railroad company and to these subcorporations.

(The COURT.) Yes, that was the substance of what I held, I think. That was not exactly the question, but as I remember it that was the substance of the matter that that was not material to the inquiry here.

(Mr. KERNS.) Do you know the area of the farm land overflowed by reason of your raising the

water by making the Post Falls dam?

(Mr. GRAY.) Objected to as improper cross-examination.

(Overruled and exception.)

A. The amount of land lying below contour 2,128 which amount is greater than the amount we overflow is in the neighborhood, as I recollect it, of about thirteen thousand acres—slightly over thirteen thousand acres.

(Mr. GRAY.) I move to strike the answer out as being improper cross-examination. No such question was gone into on direct.

(The COURT.) You showed by this witness something of the examination of this land before the overflow.

(Mr. GRAY.) He said he made a reconnaissance up the rivers.

(The COURT.) Yes. Motion denied. (Exception.)

(Mr. KERNS.) Does that include the land in the Coeur d'Alene Indian Reservation? [267]

A. Yes.

Q. Also the state lands of Idaho?

(Mr. GRAY.) Objected to as immaterial, irrelevant and incompetent and not proper cross-examination.

(Overruled and exception.)

A. It includes all of the land. I think some twelve thousand of this acreage—over twelve thousand—we have acquired there in fee or easement.

(Mr. KERNS.) You have testified that the increased demand for electric power—

A. I believe so.

Q. Was from twelve to thirty-three per cent per annum? A. Yes.

Q. Where does this demand for power come from?

A. Oh, it comes from different parts.

Q. What parts? How much of that demand comes from the State of Washington?

A. Oh, I could not tell you exactly.

Q. A considerable portion of that amount is a demand from that state, isn't it?

A. No, sir, I should think it would be fairly uniformly distributed; if anything, I would think a larger percentage of that, especially the large amount of the higher percentages were due to the increase in the Coeur d'Alenes—very much the largest part.

Q. That has been happening how many years?

A. That has happened—let us see—since we have been there in 1903—

Q. The demand from the Coeur d'Alene mines last year in 1909 increased twelve per cent?

A. I could not give you that exactly, I have not got the figures.

Q. Did it increase in 1908 twelve per cent?

A. I don't think it did, no. [268]

Q. Did the demand from any other source in Idaho increase twelve per cent in 1908?

A. Yes, I think the demand from Coeur d'Alene, I think, although I would not be sure of that—I have not got those segregated—I could not tell you offhand.

Q. Are you acquainted with the demands for elec-

tric power from the Coeur d'Alenes?

A. In a general sort of a way.

Q. Are you acquainted with the possible future demands?

A. I couldn't answer. I cannot tell you what the future will hold in a mining camp.

Q. How many applications for electric power have you had from Coeur d'Alene mines in the last six months?

A. I could not give you that offhand.

Q. Have you had any?

A. We have had a number of inquiries. I could not give you the exact number of names.

Q. Is it not a fact that most of the contracts you have made for furnishing electrical power at the Coeur d'Alenes have been renewals of old contracts?

(Mr. GRAY.) Objected to as immaterial. The Court applies some general knowledge to those things—knows that any country that is settling up the demand increases.

(The COURT.) He can find out if he wants to where the increase comes from.

(Mr. GRAY.) Objected to as incompetent, irrelevant and immaterial.

A. All the old contracts have been renewed; of course the year 1908 was a pretty dull year up there, prospecting was checked very severely so that additional new customers were rather few that year.
[269]

Q. From what source did this other portion of the increased demand come?

A. It came about in the natural growth of the

community as a whole.

Q. What community?

A. The community in this country—section.

Q. Any portion of it comes from the State of Washington? A. Oh, yes.

(Mr. GRAY.) Objected to on the ground that we admit there are demands from Washington and are increasing. We are putting in electric power there.

(Mr. KERNS.) Do you admit that portion of this thirty-three per cent increase in the demand comes from the State of Washington?

A. I should think increase would be spread out roughly about the same. The percentage of increase in lighting, especially in the best lighted districts in Spokane has been very small, indeed, due to the introduction of the Tungston lamps practically knocking that increase down to zero.

(Mr. KERNS.) When did you make this estimate of the increase of the demand from twelve to thirty-three per cent per annum?

A. It is not an estimate, it is an actual figure.

Q. What are the actual figures? Did you make that statement? A. We keep a record of that.

Q. Have you a memoranda of that record with you? A. Yes, I have.

Q. Read the increase from Idaho.

A. I have not got that.

Q. Then read what you have from total sources?

A. The increase in 1905 from 1904 was thirty-three and one-third per cent. The increase of 1906 over 1905, the same. The increase of 1907 over 1906 the same. The increase of 1908 over 1907 is nine-

teen and one-half. The increase of 1909 over 1908 is twelve [270] and one-half. The increase this year to date is running about sixteen per cent.

Q. Can you tell from the memoranda you have from what source that increase comes?

A. No, sir, I could not tell you.

Q. Don't know whether from Idaho or Washington? It is a fact you are seeking to preserve Lake Coeur d'Alene as a reservoir or storage basin, however, in order to furnish permanent supply of water for the low-water season to your Spokane and other power dams, is it not, during the low-water season?

(Mr. GRAY.) Objected to. Witness has testified entirely to the fact and I think this is immaterial and irrelevant, incompetent, improper cross-examination and not within the issues in the case.

(The COURT.) He may answer.

(Exception.)

A. I stated that a few minutes ago, just what the figures were.

(Mr. KERNS.) That is a fact, isn't it?

A. The water which is conserved in the lake is used to any avail that may be developed on the river at Post Falls or other points.

Q. And it is used by these plants of your company, is it not?

(Mr. GRAY.) Objected to as improper cross-examination, incompetent, irrelevant and immaterial. He has testified to exactly what extent their other plants are benefitted.

(The COURT.) He may answer.

(Exception.)

A. That stored water would be—could be used at the plant in Spokane.

Q. It is used as a fact? A. It is. [271]

(Mr. GRAY.) Objected to upon the ground as improper cross-examination, irrelevant and immaterial.

(Mr. KERNS.) We don't want to put anything in this record that will spoil our chances. We are as anxious as counsel to keep the record clear.

(The COURT.) I don't suppose there are any errors in the record.

(Mr. GRAY.) Not any I have put in.

(Mr. KERNS.) Answer that question again, please.

(Question read.)

A. The stored water increases the capacity of Post Falls plant by ninety per cent in the low-water season and the bear-trap is put in there primarily for the Post Falls plant.

(Mr. KERNS.) That does not answer my question. That additional flow caused by the stored water during the low-water season incidentally does benefit to some extent—not anything like that proportion—the flow at Spokane and the power accordingly.

Q. And also your other power plant further down the river?

A. We did not put the dam in there primarily to help out Nine Mile plant or any plant built by anybody else.

(Mr. GRAY.) There are plants along the river other than the plants used by The Washington

Water Power Company, aren't there?

A. There are.

Q. They are incidentally benefited the same as The Washington Water Power Company?

A. They are.

Q. They did not contribute to the construction of the dam? [272]

A. No, sir.

Q. Have anything to do with it?

A. No, sir.

Q. Did you say that if the bear trap was collapsed that the level of the water could be held to 2116.5?

A. It might be under certain conditions if it were possible to get the normal flow of the water at that season through the water wheels it might be possible to keep the water flush there; I don't believe it would be possible.

Q. Has it ever been done?

A. No, sir.

Q. As a matter of fact, the head of the water above that dam would be the crest of the water?

A. Yes.

Mr. KERNS.—Are any of those other power plants or dams in Spokane River, in Idaho?

A. Not that I know of; there is none at present.

Q. Dams, you answered, in relation to, in answer to Gray's questions, are dams situated in the State of Washington.

A. There is a dam at the city of Spokane, a dam at Nine Mile which furnishes the power for the electric line running in to Palouse and into Moscow, Idaho.

Q. They are both down below Spokane, are they?

A. One is at Spokane, the other is below.

Q. But they are in the State of Washington?

A. Yes.

The COURT.—In regard to that plant at Nine Mile, that belongs to the Spokane railroad company? A. Yes.

Q. Is that company interested in any way whatever with your company in the condemnation of these lands? [273]

A. That I do not know, Judge.

The COURT.—The question is prompted largely by a statement I saw in the paper the other day attributed to an engineer of the Spokane Inland Railway Company in his testimony to the effect that they would not have completed the dam to the capacity it was, had it not been for this reservoir.

Mr. GRAY.—I never heard of it.

The COURT.—With the dam as you have it now at Post Falls, these concrete piers of the height they are can you arrange to raise the water any higher than you have done with the bear-traps without raising the dam higher? A. No, sir.

Q. What is there, if anything, that would prevent you from raising that dam and increasing the depth of the water through this reservoir if you finally have the right to condemn the land?

A. The substructure of the bear-trap, in fact, all of the dams there are calculated and designed for that head of water and they would be severely overstrained if you should increase it.

Q. Is there anything to prevent you, if you should

acquire the right to do so to raise that dam a considerable height above what it is now or build another dam that would be a considerable height above this and raise the water some distance above what you have been able to raise it or could raise it?

A. That would not be feasible commercially or physically with the present structure.

Q. But not impossible with the present structure?

A. If those structures were removed and larger, wider, and higher dams were put in and the whole thing was built over, you could build up higher.

Q. Suppose you acquire the right to this land and other land [274] that you might need in order to make a permanent reservoir with the dam there, what is there, if anything, to prevent you then from building a dam still higher or building another dam and increasing the capacity of your reservoir indefinitely?

A. The commercial aspect of the situation would prevent that. It would be entirely wrong for the present investment to make a new investment. The present dam would have to be replaced.

Q. It is a matter of investment and nothing else?

A. It would not be a feasible commercial proposition.

Q. That is the only thing in the way?

A. I think that would be the only thing. If you wanted to spend enough money, you can do pretty near anything.

Q. I mean the physical difficulty, if any, in the way of increasing the capacity of this proposed reservoir by raising the dam and flooding additional land?

A. You could not raise the dam without endangering the stability of it because they are not designed for that. You could take the dam away entirely and remove it and build a new one higher and thicker and heavier throughout, but you could not use that in connection with the present work.

Mr. GRAY.—It would interfere with the rights now operating?

A. Yes.

The COURT.—That's what I want to get at, anything in the physical conditions that would prevent a very material increase in the depth of this water with that purpose to put in the reservoir?

A. I presume we would be estopped by the O. R. & N. railroad and probably the Milwaukee. I don't know what the elevation of the Milwaukee is, but I am satisfied the O. R. & N. would interfere. They were considerably stirred up at the time we put the dam in and they made an exhaustive examination. They were flooded out, I [275] think, in '94, they were entirely flooded out for some time.

Q. Where are you building this plant you say you have in progress of construction now?

A. That is at a place known as Little Falls about fifteen miles north of Reardan.

Q. How far from Spokane?

A. By the transmission line, about twenty-eight and one-half miles.

Q. You say you have about how much capacity there?

A. We will have part of that plant in operation next fall or early winter, if we have good luck.

Q. How much capacity?

A. We are putting in at this time, we expect to have the first unit of five thousand kilowatt in operation.

Q. What was the low-water capacity of the plant when completed?

A. The low-water capacity with storage nineteen thousand horse-power.

The COURT.—I have a note here that indicates that you stated that the increased power down there would be about six thousand horse-power by reason of the reservoir.

A. Five thousand four hundred with the complete installment.

Q. You get about fifty-four hundred by addition of the reservoir? A. Yes.

Q. With the plant you have in Spokane and what you propose building there, this reservoir would give you about twelve thousand horse-power?

A. Yes, with the proposed works we gain about twelve thousand one hundred.

Q. Has your company now any more power sites on the Spokane River below Spokane? [276]

A. No, sir.

Q. What about the steam plant you speak of in Spokane, what is the capacity of that?

A. The capacity of the steam plant is about fourteen thousand kilowatts.

Q. Is that in operation all the time?

A. No, sir.

Q. Was it not built originally to supplement your power plant at Spokane in low water?

A. It was built to supplement part of the power at low water; it was primarily built as a stand-by service in case we broke down any part of the hydraulic apparatus.

Q. You don't run that regularly? A. No, sir.

Mr. GRAY.—If you were not to store water in Lake Coeur d'Alene could you supply the demands for electric horse-power by generating water power which is required for the use of the Coeur d'Alene mines? A. We certainly could not.

The COURT.—Your steam plant would be about twenty-thousand horse-power, approximately?

A. About nineteen thousand.

Mr. KERNS.—Q. You did, however, furnish Coeur d'Alene mines with electric power prior to the building of Post Falls dam? A. Yes.

Q. Four or five years? A. No, sir.

Q. 1903 to 1907?

A. 1903 to 1906, I think, three years.

Q. When did you finish building the building at Post Falls dam? [277]

A. August 30th the bear-trap dam was raised first time in 1906.

Q. Was that the completion of the construction of the dam? A. Yes, sir.

Q. Has the bear-trap been up all the time since that? A. No, sir.

Mr. GRAY.—The power that was furnished to the Coeur d'Alene mines originally from Spokane was furnished only in contemplation of the development at Post Falls to supply them?

A. That is true. As a matter of fact, we rushed

the construction at Post Falls with all possible speed as the summer before we had an actual shortage and we had unfortunately to shut down the mines at periods of the day. We did that for considerable periods during the low-water season we were actually short of power.

Q. The power could not be transmitted from either practicably when you have a power line here where the loss is so much less?

A. The distance is so much greater from Spokane with anything like the present load the loss of the line would be such as to make very poor—give very poor service. The regulation of the use of the line would be such that the difference in the pressure in the lines for instance between a light load and a full load would be very great, and the full load lights would be burning very dim, the voltage would be low so the motors would not operate satisfactorily.

Q. And if the demand was sufficient in Washington to take up your power generated it would be impracticable from a commercial and business standpoint or a practical electrical engineer's standpoint to transmit it so far? A. It would.

Mr. KERNS.—What is the distance of your line from Post Falls to Coeur d'Alene mines?

A. I think about eighty-six miles. [278]

Q. From Spokane to Coeur d'Alene?

A. About 101 miles.

Mr. GRAY.—Your company stands ready and willing to sell power to customers in Idaho as long as it has it, from Post Falls? A. Yes.

Mr. KERNS.—By what authority do you make that statement?

A. By the known policy of the company.

Q. You are not authorized by the board of directors or trustees of that company to make that statement?

A. I know by experience their policy in such matters.

Mr. GRAY.—The complaint alleges we do.

A. I am authorized to enter into negotiations for any additional amount of power that may be required here.

Q. From your Post Falls plant? A. Yes.

Q. How much additional power have you at that plant?

A. Right now we have about—at the present time three or four thousand horse-power.

Q. What did you do with it?

Mr. GRAY.—Objected to as immaterial, incompetent and irrelevant. I have some authorities upon that question. As long as they are supplying us if they have a surplus they can use it or let it go to waste whichever they want.

The COURT.—I think he can answer the question.

(Question read.)

(Exception.)

A. At the present time we have still a slight excess of power available at Post Falls. At low-water periods it is not true. The fact is the river is now greatly in excess of low water.

Q. What are you doing with the excess of power?

A. We are keeping it available for our customers.

[279]

Q. Not using it at all? A. No, sir.

Q. If you should to-day enter into a contract to supply someone in Washington with that excess power three or four thousand horse-power, do you contend that you could rescind that contract at will in order to deliver the same power to some man in Idaho and that your company would so rescind it?

Mr. GRAY.—Objected to as speculative and a legal conclusion. Witness don't know. He is not a lawyer.

The COURT.—If witness can answer, he may so do.

(Exception.)

A. In making such probable contract we would not do so unless we could see some other means of making up the deficiency when the Post Falls plant was unable to furnish it. If we could not do that we would not be able to enter into the contract. If we could get a customer who would use the power during flood-water season, we would be glad to do business with him and make him a very low rate for it.

Mr. KERNS.—You don't exactly answer my question. I asked you if your company had entered into a contract with someone in Washington for that excess power that you contend that you would have the right to rescind that contract so as to give the power to someone else.

(Objected to as incompetent, irrelevant and immaterial and speculative.)

The COURT.—He may answer that.

(Exception.)

A. I have answered it as well as I know how.

Mr. KERNS.—Would your company have a right to rescind a contract with a resident of Washington?

[280] A. I am not a lawyer.

Mr. GRAY.—Objected to on the ground it calls for a legal conclusion.

The COURT.—Yes.

Mr. KERNS.—Then there is a clause in your contract authorizing you to, or by which your contract to furnish power is subject to such restriction by which your company can rescind the contract?

Mr. GRAY.—Objected to upon the ground he is talking about some contract that has been made; speculative, improper cross-examination, incompetent, irrelevant and immaterial, no foundation laid for such a question. There is no proof that there is any contract for selling power generative.

The COURT.—He may answer it.

(Exception.)

A. I don't recollect any such case.

Q. You don't know of any such case?

A. No, sir.

Mr. GRAY.—Nor any such contract?

A. No, sir.

Mr. KERNS.—Do you have anything to do with making contracts in behalf of The Washington Water Power Company to supply electric lights?

A. That is not my specific work, no, sir.

Q. Do you know anything about it? A. Yes.

Q. Isn't it a fact all your contracts contain a clause that you will agree to furnish this power named in

310 *The Washington Water Power Company vs.*
the contract subject, however, to prior rights and
obligations, of any of other users of electrical energy?
[281]

A. In Shoshone County, is it not?

Mr. GRAY.—Objected to as improper cross-examination.

Mr. KERNS.—Yes, Shoshone County.

The COURT.—He may answer it if he can.

(Exception.)

A. If I understand your question referring to sale of some power in Washington, I don't recollect any such clause, and I don't think there is any.

Q. This clause is in the Shoshone County contracts, is it?

A. It looks as though it was if it mentions Shoshone County.

Q. That clause is in the contracts you have for the supply of electrical power in Shoshone County, is it not? A. I could not tell.

Q. Do you say it was or was not?

A. I said I could not tell.

Q. You say you cannot tell me; you don't know?

A. No, sir.

Objected to as an argument between counsel and the witness.

The COURT.—He has answered it.

Witness excused. [282]

C. S. McCALLA, recalled by Court, testified as follows:

(COURT.)—Is this 6½ feet above low water as high as you ever raised the water in the lake or river by the bear trap?

A. Yes, within a very few inches.

Q. Is it practicable to raise the water substantially the full height of the bear-trap, 10 feet?

A. No, sir; physically impossible.

Q. How near can you come to it?

A. About $3\frac{1}{4}$ feet. The base of the bear-trap, that is, the crest of one gate when it is open or collapsed, is about $3\frac{1}{2}$ feet below the low water at the gate; the gate has a total raise of 10 feet; the amount of water above the water of the lake is the difference between $3\frac{1}{2}$ and 10 feet.

Q. The bear-trap collapsed is about 3 feet below low water?

A. Below the lake low water; the low water of the lake is about 2120 and the elevation of the bear-trap collapsed is 2116.45.

Q. I understand you have raised the water as high as practicable to raise it with the bear-trap?

A. Yes, sir; we have. Our employees at Post Falls have instructions to watch the flow of the water over the bear-trap in order to protect it from damage in case the water should flow over there; the gate is not designed as a spillway; if a material amount went over it it would not be endangered. As soon as that condition is approached, they have to open the Tainter gates and other gates, and when water level gets beyond control, we collapse the bear-trap.

Q. What are the Tainter gates named from, the inventor? A. A man by the name of Tainter.

(Witness excused.) [283]

**Certificate [of Counsel Re Transcript of Testimony,
etc.].**

State of Idaho,
County of Kootenai,—ss.

I, M. D. Barstow, hereby certify that I am the regular Court Reporter for the District Court of the Eighth Judicial District of the State of Idaho, in and for the County of Kootenai, and that I was such Reporter and reported the case tried in said Court, entitled *The Washington Water Power Company, a corporation, Plaintiff, versus Charles Waters, Bertha E. Waters and Sabastiano Demicco, Defendants*; that the following testimony is a true, full and correct transcript of the testimony of witness C. S. McCalla, who was called and sworn as a witness on behalf of plaintiff in said case; that said transcript was taken in shorthand by myself and that I personally transcribed the said testimony from my original notes made by me at the time the said testimony was given in said case.

Dated this 31st day of December, A. D. 1912.

M. D. BARSTOW,

Official Court Reporter, 8th Judicial District of
Idaho.

[Endorsed]: Filed January 7, 1913. A. L. Richardson, Clerk. [284]

*In the United States Circuit Court of Appeals, Ninth
Circuit.*

No. 535.

WASHINGTON WATER POWER COMPANY,
a Corporation,

Complainant and Appellant,

vs.

KOOTENAI COUNTY, a Municipal Corporation,
and FRED E. WONNACOTT, as Assessor
and Ex-officio Tax Collector of Kootenai
County, Idaho,

Defendants and Respondents.

**Statement of Evidence to be Included in Record
on Appeal.**

The above-entitled cause came on for trial and hearing before the Honorable FRANK S. DEITRICH, United States District Judge, for the District of Idaho, at Coeur d'Alene, Idaho, in the Northern Division of the District of Idaho, on the 2d day of August, 1912, said Judge sitting without a jury. The following appearances were made: Mr. Frank T. Post and Mr. John P. Gray appearing as solicitors for complainant and Mr. N. D. Wernette, County Attorney, and Mr. R. H. Elder appearing as solicitors for the defendants.

Thereupon the following witnesses were called, sworn and examined, and the following proceedings had in said cause:

[**Testimony of A. J. Wiley, for Complainant.**]

A. J. WILEY, a witness called and sworn on behalf of complainant, testified as follows, on

Direct Examination.

(By Mr. GRAY.)

My name is A. J. Wiley; my occupation, civil engineer; [285*—1†] residence, Boise, Idaho. I was educated at Delaware College, Delaware, and I have been practicing my profession since, for about twenty-nine years. I have been engaged in hydraulic and power engineering for this period. For the last ten years I have been largely engaged in hydraulic power development. In that period I have been chief engineer of the Swan Falls Power Company, for about three years, and consulting engineer for the same company for seven years. Its property is located at Swan Falls, on the Snake River, about 30 miles south of Boise. I have been chief engineer of the Boise-Payette River Electric Power Company, which property is located on the Payette River about 30 miles north of Boise, Idaho. I have been chief engineer for the Boston & Idaho Gold Dredging Company of the electric power plant there, located on the Payette River, near Pioneerville, Idaho. I have been chief engineer for the Barber Lumber Company, whose electric power plant is located on the Boise River about seven miles above Boise. I have been chief engineer for the Idaho Consolidated Mining Company, whose power plant is located near

*Page-number appearing at foot of page of certified Transcript of Record.

†Original page-number appearing at foot of page of Testimony as same appears in Certified Transcript of Record.

(Testimony of A. J. Wiley.)

Bellvue, Idaho. I have been consulting and designing engineer for the Great Shoshone & Twin Falls Water Power Company, whose plants are located at Shoshone Falls, Lower Salmon Falls, and Upper Salmon Falls, of the Snake River. I am consulting and designing engineer for the American Falls Power Company, whose plant is located at American Falls on Snake River, near Pocatello, Idaho.

In the course of my experience, I have resigned and constructed a great many power plants. I consider myself intimately acquainted with the power plant of the plaintiff situated [286—2] at Post Falls, Idaho. I first examined it on July 1st, 1912, for the purpose of making an estimate of the cost to reproduce. I made such estimate as largely as possible entirely independent of the records of the company. For this purpose I made an itemized estimate of the cost to rebuild the plant, based upon an examination of the plans of the company, the original records of the engineers, including the profiles and the record books; I computed the yardage of excavation and of concrete, and the amount of steel, the cost of all hydraulic and electric equipment, and, in general, the cost of everything that went into the construction of the power plant. The records of excavation and of concrete are practically independent of the company's records, except that the original engineering data of the company was used and my own estimates of cost per yard—per unit of the various items was used. The cost of machinery was obtained by going back to the original records of the

(Testimony of A. J. Wiley.)

company, including the original proposals of the machinery houses that furnished the machinery, and, in general, I made the estimate as nearly as I could exactly as if I had been making it for a new reconstructed plant. When I used the term "Plant" I included all items of construction at the Post Falls plant, including the dams, the buildings and the machinery necessary for the generation of the power. I made inquiries as to the cost of labor and material in the vicinity of Post Falls and this section and found them to be practically the same as that in section of Idaho with which I am more familiar, the southeastern part. It was necessary for me to go to the original engineering dates and profiles and plans of [287—3] the dam for the purpose of determining the excavation and other work that went into that because it is impossible at this time to tell what the contour of the ground was at the time of construction. The cost of reproduction of that plant according to the estimates which I made, exclusive of right of way is \$954,170.79. The south channel dam, \$30,529.00; the north channel dam, \$110,836.06; the middle channel dam, \$184,906.02; the power-house building, \$134,556.28; the power-house machinery, \$422,155.53; the high tension building and equipment, \$60,325.26; the storeroom building, \$1,490.87; the cottages, \$8,052.60; the patrol-house, \$1,319.17; total, \$954,170.79. So far as the machinery item is concerned, it was not necessary to have any plans or specifications to determine whether or not that item was correct; I did compare it to see whether it was a

(Testimony of A. J. Wiley.)

reasonable cost or not, although I took the company's cost, as determined by the original records, as being correct, or nearly correct. I found the company's cost to be a reasonable cost; I considered it an average cost. It was necessary for me to have the profiles and records for the purpose of determining the cost of the power-house building, and the dams and the high tension buildings, the cottages, patrol-house and storehouse, I took from the company's records as being the best evidence; they are a small amount, anyway.

In investigating those costs, those expenditures made for those various items were in my judgment reasonable. The item which I have given of \$954,170.79 represents the reproduction in the original conditions, in other words, new. Based upon its cost, new, according to the estimates which I have made, I estimate the present value of that plant at [288—4] \$822,402.79. I account for the difference between the sum \$954,170.79 and the \$822,402.79 for allowance made for depreciation. Depreciation is an allowance made for the ordinary deterioration of a plant due to age, over and above its maintenance and up-keep, whereby in the period of the life of a plant it becomes totally depreciated so that it is no longer capable of performing the functions for which it was intended. On the dams I allowed a depreciation of 2% per annum, on the power-house and other buildings, 3%, on the machinery I allowed 5%, on the high tension equipment

(Testimony of A. J. Wiley.)

I allowed 4%. The high tension equipment is not given separately in the estimate, it is included with the buildings; the item of \$60,325.26, the depreciation which I allowed on each of those items, in my judgment was a reasonable value and customary depreciation. The cost of the reproduction of the dams could be estimated by me by the use of the profiles of the river; it would be a matter of calculation by use of the profiles and the plans together, and by using the profiles and the plans for determining the cost, the figures I have given as the cost of those various dams and the excavations for them can be determined; and I consider the figures which I have given as the cost of those dams in the several channels reasonable figures based upon those profiles and plans. The entire plans of the power-house, including the entire foundation plan, and including the profiles of the original river channels, were necessary for the purpose of determining the reproduction cost of that, and with those the cost can be determined. They are the records I used in determining the cost which I have given, and from those plans and profiles I found the cost as given to be a reasonable cost. With [289—5] reference to the machinery I used the original records of the company, the bills of lading and the original proposals received from machine companies, and in my judgment the cost of the machinery, from an examination of the machinery itself, given by me is a reasonable cost. The original records and proposals which I have referred to show that machinery to have cost new, the sum which I have given.

(Testimony of A. J. Wiley.)

With reference to the high tension building I used the original records of the company in determining the foundation and excavation; that is the profiles, and I used the plans of the company for determining the amount of concrete and steel entering into the construction, and for the cost of the high tension equipment I used the records of the company as being better evidence. Without considering the records, the sum paid and which I used in getting up my costs of the high tension building and equipment, was a reasonable cost; the cottages and small buildings are for the employees; I used the company's records and checked that with my previous experience in building similar cottages. I think the cost of those given by me to be a reasonable cost.

[Testimony of John B. Fiskén, for Plaintiff.]

JOHN B. FISKÉN was then called as a witness on the part of the plaintiff and after being duly sworn testified as follows, upon

Direct Examination.

(By Mr. GRAY.)

My name is John B. Fiskén. I am superintendent of light and water of the Washington Water Power Company. I reside at Spokane. I graduated from the London Technical Institute in 1886. I spent a year on Puget Sound and Vancouver and [290—6] Victoria doing various jobs of construction and operating; six months of that time was operating the plant at Victoria. I came to Spokane 25 years ago yesterday, and I have been connected with elec-

(Testimony of John B. Fischen.)

trical work in Spokane ever since, both operating and construction work, but for the last few years on operating alone. I have been in my present position about 24 years. I have to see that the Post Falls plant of the plaintiff is kept running, and see that the operating and maintenance costs are kept down. I have not had charge of the plant entirely since its construction, it was operated by the construction department for about six months before it was turned over to me, about the beginning of 1907. The charges of operation are passed by me before they go on the books, I know what the cost of operation for the year 1908 was. Included within the cost of operation are the wages of the operators and such small items as supplies for the station, wires and waste. In the year 1908 there were nine operators and occasionally extras. I can't tell the extras without referring to the books. The cost of operation for that year would run from \$8,600 to \$8,900; that does not all appear on one ledger or book, but on several. The exact cost of operation for the year 1908 of the Post Falls plant was \$8,621.85, the power which was developed was distributed in Kootenai and Shoshone Counties, Idaho, and Spokane County, Washington.

The cost of operation of the high tension lines in Shoshone County during the year 1908 was \$3,900. I also have charge of the distribution of that power. We distributed in Shoshone County 22,534,397 kilowatt hours. The line loss on delivering that power was 2,253,439 kilowatt hours. We [291—7] de-

(Testimony of John B. Fisk.)

livered to the Coeur d'Alene & Spokane Railway at Post Falls 4,776,000 kilowatt hours. We delivered to Mr. Martin of Post Falls 246,415 kilowatt hours. We delivered to Mr. Strathern, of Post Falls, 1,106,281 kilowatt hours. To the Kootenai Power Company at Post Falls 1,865 kilowatt hours; a total of 30,918,397 kilowatt hours; the total output of the Post Falls plant that year was 40,399,000 leaving an excess at the switchboard of 9,480,603 kilowatt hours; that was sent to Spokane, the line loss in sending to Spokane would be 10% on 9,480,603 kilowatt hours, leaving delivered at Spokane at the substation there, 8,532,543 K. W. hours; that has to be converted and there would be a loss in conversion of about 25% or 2,133,136 K. W. hours, leaving the net delivered 6,399,407 K. W. hours.

The operating expense at Post Falls for the year 1909 was \$8,756.38; the operating expense in Shoshone County, \$3,900; the output of the Post Falls Plant for the year 1909 was 24,040,306 in Shoshone County delivered at the customers premises, at the mines. The line loss on that power was 2,404,030 K. W. hours, 10%; that is a fair estimate of the loss; that line from Post Falls to Wallace is about 65 miles; some of the power is taken off before it gets there other goes beyond. The Coeur d'Alene & Spokane Railway received 5,110,000 K. W. hours. Mr. Martin 247,926; Mr. Strathern, 1,279,819; the Kootenai Power Company, 12,794, a total of 33,094,875 K. W. hours, delivered in Idaho; the total output of the plant that year was 49,043,000; the ex-

(Testimony of John B. Fiskan.)

cess at the switch board after deducting the amounts distributed in Idaho, was 15,948,125 K. W. hours, which was sent to Spokane, the line loss in sending was 1,594,812 K. W. hours, leaving [292—8] a total delivered at Spokane at the substation there, 14,353,313 the loss by conversion was 3,588,328, leaving a net delivered there of 10,764,985.

The cost of operation at Post Falls in 1910 was \$8,819, the cost of operating in Shoshone County was 3,953; the power developed and distributed for the year 1910 in Shoshone County, 28,409,826; the line loss, 2,840,982; to the Coeur d'Alene & Spokane Railway, 6,068,200; to Mr. Martin, 7,613; to Mr. Strathern, 1,443,447; to the Kootenai Power Company, 22,318; a total distributed in Idaho of 38,992,386.

The total output of the plant that year was 57,127,000; the excess at the switch board over that distributed in Idaho, 18,134,614; that was sent to Spokane, the line loss was 1,813,461, leaving delivered at Spokane 16,321,153 K. W. hours, the loss by conversion there was 4,080,288, a net delivered at Spokane of 12,240,865. Witness temporarily excused.

[Testimony of C. F. Uhden, for Plaintiff.]

C. F. UHDEN was called as a witness on the part of plaintiff, and after being duly sworn, testified as follows, on

Direct Examination.

(By Mr. GRAY.)

My name is C. F. Uhden. I reside at Spokane, Washington. I am an electrical engineer. I graduated from the Washington State College in 1906,

(Testimony of C. F. Uhden.)

since which time I have been with the Washington Water Power Company. The first plans for the Post Falls Dams were started in the fall of 1903; the construction actually began in the spring of 1904; the first unit was operated in July, 1906; the map which I hand you clearly shows the property of the Washington Water Power Company [293—9] situated at Post Falls. This shows that the river divides into three channels which we designated as the South channel, the middle channel and the north channel. There is also a small channel leading off from the north channel, which supplies water to an irrigation system. We have a dam and gate at this point, and that small channel is the one that was used at the time the old cable mill was supplied with water-power, and we have also put in a dam and gate at that point. I have been with the company during the entire construction of that plant and during its operation since construction. I had charge of the construction of the plant. I was superintendent of the construction work.

(Document marked "Plaintiff's Exhibit #2.")

(Witness continues:) That document gives the reading of the work order, and also the number of it; that is a sample of some 125 or 130 work orders which I opened on this job. After having obtained that slip I am authorized to make requisitions upon the supply department or purchasing agent for any materials which I want, which material is entered upon the slips, of which these are carbon copies. I

(Testimony of C. F. Uhden.)

haven't the original slip with me; that is a carbon copy of it.

(Document here marked "Plaintiff's Exhibit #3.")

WITNESS.—Exhibit #3 shows the material and labor in connection with these work orders, which is #3650; these original slips are filled by the auditor. The carbons are sent up to me so I have a carbon copy of every cent that is spent in connection with this job. Those carbon copies, or those tickets are closed, totaled at the end of every month and are transferred to what we call the work order ledger, of [294—10] which this is a sample sheet.

(Sheet produced marked "Plaintiff's Exhibit No. 4.")

WITNESS.—From that sheet they are transferred to subsidiary ledger of which sheets are a sample.

(Sheet here marked "Plaintiff's Exhibit No. 5.")

WITNESS.—These being sheets of the ledger which show the different account numbers, according to the company's classifications. From there they are entered into the general ledger which shows the different accounts which the company has according to classifications. They are entered there into the general ledger, each work order and each piece of material and each particular labor or time slip which is issued follows through in the same way into the general ledger; the method I explained takes care of all material. The labor is distributed, daily slips are made out by the foreman on the job, who turns in

(Testimony of C. F. Uhden.)

the slips to the timekeeper, and the timekeeper enters the items upon these slips, which we call time sheets.

(Document here marked "Plaintiff's Exhibit No. 6.")

WITNESS.—From these yellow sheets the time is placed upon the payroll sheets, which gives the total of the payroll for each month; that is shown by this sample which I have here.

(Document marked "Plaintiff's Exhibit No. 7.")

WITNESS.—These yellow sheets also show work order number in the left hand column, to which every hour of labor is distributed according to the work order numbers. Every item is placed according to its work order number, upon this sheet here which [295—11] shows the amount charged to every particular work order.

(Document here marked "Plaintiff's Exhibit No. 8.")

WITNESS.—Which gives the distribution, and the labor as shown upon the first sheet in connection with these work order copies which I showed you, and the total from there, as I described before. The total is taken from there and put upon the work order sheet and so on until it gets to the proper ledger; it is then carried into the general ledger from those. During the construction the costs were carried for the various items in just that manner. As I remember, there were between 125 and 130 work orders. I have gone through those items, checked them up and know what the property costs; the total cost of the

(Testimony of C. F. Uhden.)

plant according to my own figures from the carbons furnished me by the auditor was 1,068,773.01; that includes the land outside of the land the buildings, construction, machinery and the dams, would be \$959,500.57; the south channel dam complete costs \$24,930.20; the north channel dam complete cost \$107,132.46; the middle channel dam cost \$188,036.40; buildings, \$185,299.95; machinery, \$425,786.41. In constructing the plant I segregated the cost of the several dams and carried them along separately. I made no totals until the completion of the plant; yesterday and the day before I segregated them; and those work figures I have given. I included the railroad spur and bridge in the \$959,500.00 item. The amount of that was \$19,795.39; this railroad spur and bridge was put in for transporting the machinery and other materials to the plant site for the middle channel; in the course of the construction work, it has not been used since the installation of the last unit in August, 1908. The bridge was a [296—12] combination bridge, wood and iron; the track was single steel rails; the bridge is still there but the track is not. I considered the question of interest on construction, \$34,570.79; it is included in the total; the railroad spur and bridge are also included in the total; the cost of the cottages was \$8,519.76, which makes my total \$959,500.57; that is the original cost of the plant.

[**Testimony of John P. Gray, for Plaintiff.**]

JOHN P. GRAY was then called as a witness for the plaintiff, being duly sworn testified, on

Direct Examination.

(By Mr. POST, as follows:)

I am one of the attorneys for the plaintiff in this case. I can't say definitely, whether I was present at the time they were handed to him, or whether they were handed to him or mailed to him. The facts with reference to furnishing a list of the property of the Washington Water Power Company in 1911 are these: Some time either the latter part of May or one of the very early days in June I met Mr. Wannacott on the street, and he spoke to me about the assessment of the Washington Water Power Company for the year 1911; I can't fix the exact day; I have no memorandum by which I can do that. He stated to me that he desired to have a list of the property in Kootenai County. I told him that I would be glad to furnish it to him; and I also suggested that it might be well for Mr. Bleecker to come up. Mr. Bleecker is Vice-President of the company. And if there was anything he wanted to know he would ask him about it. I told Mr. Wannacott that I would communicate with Mr. Bleecker and have him [297—13] come up. I find the only memorandum I am able to find in my files is a carbon copy of a letter dated June 9th in which I advised Mr. Bleecker that the assessments of the property of the Washington Water Power Company had not been yet made by the assessor, and that the assessor requested

(Testimony of John P. Gray.)

me to ask Mr. Bleecker to send a list of the property owned by the company, and suggested that I would like two copies of the list. That was pursuant to my conversation with Mr. Wonnacott, and as nearly as I can say, it must have been that day or the day before that I met Mr. Wonnacott on the street—June 9th. Pursuant to that, Mr. Bleecker came up either on the 10th—I think on the 10th. I know he communicated with me on the telephone and advised me that he was shortly going away on either the next day or within a day or two. I know that I have correspondence in my files which shows to me that Mr. Bleecker left on or about the 13th of June for a long vacation in California. It was between the date I wrote this letter and the 13th of June that Mr. Bleecker came to Coeur d'Alene, and I went with him to Mr. Wonnacott's office. I can't say whether Mr. Bleecker and I handed this list to Mr. Wonnacott at that time, or whether it had been presented to him by someone for us previously. At least at that time the list was there, and Mr. Wonnacott had it. This is the list I have in my hand, it consists of the property at Post Falls and certain pole lines, and a certain number of pieces of land, upon which the company has easements, or which they own in fee.

(Document here marked "Plaintiff's Exhibit No. 9.") [298—14]

WITNESS.—I introduced Mr. Bleecker to Mr. Wonnacott,—I think prior to that time they were not acquainted,—and I asked Mr. Wonnacott if that was

(Testimony of John P. Gray.)

the list of the company's property that he wished, and he said it was. I asked him if he desired us to put the valuations to the several items there, and he distinctly said that he did not, that he would assess that. I also asked him if he desired to have it sworn to as a correct list, and he said no, it wasn't necessary to have it sworn to as a correct list, that that was what he wanted, a complete list of the property, and as nearly as I knew it was a complete list of the property at that time. The question of the assessment of the Washington Water Power Company property in this county was then discussed between Mr. Wonnacott, Mr. Bleecker and myself. We felt that the year previously we had been unfairly treated in the assessment, and so stated to Mr. Wonnacott. At that time I said to Mr. Wonnacott that we would be glad if he would employ a competent accountant to go through our office and investigate the actual cost of the property at Post Falls for the county, and I said that we would even go so far as to pay for a certified competent public accountant whom he might select. He said that might be a very good thing, but he didn't have any authority to do anything of that kind. I also suggested that I would be glad to have some competent engineer appraise the property at Post Falls, and he said that might be a good thing, but it was for the Board of County Commissioners. He did say that he had been to Post Falls and looked over the property there, that he had been denied admission to the power-house, or one of the houses there. Mr. Bleecker explained to

(Testimony of John P. Gray.)

him, in my [299—15] presence, the reason, and that was that the employees at Post Falls, as well as all of the other power stations of the company, had been directed to refuse admission to anyone who applied for admission there without an order from the company, the reason being that it was dangerous to be in and about those—I don't know whether it is those high tension buildings or the power-houses there, but it is dangerous. I know Mr. Bleecker said he never went into them, but he said that if Mr. Wonnacott would fix any time he would go down or have someone go with him to Post Falls and take him through the plant, that he was perfectly willing for him to investigate the cost sheets of the company to ascertain what it cost. Mr. Wonnacott did not say at that time what he would do, and, after delivering that list to him, and he saying that it was all he wanted, Mr. Bleecker and I retired. The next step was at the time we filed the petition with the Board of Equalization of this county for a reduction of the assessment which Mr. Wonnacott placed upon that property. At the time I appeared before the Board of County Commissioners, sitting as a Board of Equalization, I had a stenographer present who took the proceedings, and I filed a verified petition for the company, and I am inclined to think it was attached to the complaint as an exhibit, and a date was fixed for a hearing by the Board of Equalization, and we appeared there at that time with witnesses, and there was a reporter present who transcribed the testimony, Mr. Lake, I believe. I had Mr. Lake, the re-

(Testimony of John P. Gray.)

porter, write off what took place at the meeting and furnished a copy to Mr. Wernette. [300—16]

The record of the proceedings taken before the Board of Equalization was then produced and it was agreed in open court that the reporter who took such testimony was a competent reporter and would testify that his transcript was true record of the proceedings had before the Board of Equalization. Thereupon such transcript was introduced and received in evidence. [301—17]

WITNESS (Continued).—There was just one step more concerning which I have personal knowledge and that was the tender to the assessor of the taxes which the Washington Water Power Company,—the sum which we conceded should be paid; on the 26th of December last I went with Mr. Steele and Mr. McCarthy, an attorney associated with me, to Mr. Wannacott, and I then tendered to him, in gold coin and in silver coin the amount which we admitted we should pay. I have a memorandum here. I think everything is admitted really except the total sum upon which we made that tender. I believe it was in the neighborhood of \$854,300 and some odd dollars. The correct amount is set forth in the complaint. I stated to Mr. Wannacott at that time that I did not ask a receipt in full. I proffered the money to him without conditions. We conceded that it should be paid, and simply asked for an acknowledgment that he had received that money, so that as to that no penalty would attach. He stated that he did not desire to take anything less than the

(Testimony of John P. Gray.)

full sum, and would not take any less than the full sum of the taxes as extended upon the assessment-rolls. I tendered it to him in two ways. It was difficult, if not impossible, from a real engineering or scientific standpoint to segregate the value of that property. It had been assessed by the assessor one time at one sum and one at another. At that time we had been unable ourselves to segregate those costs. I tendered him the money on a valuation of \$854,300, and let him distribute it as he pleased, or, if he desired that it be divided up, I told him it could be divided and applied in this manner, that we would tender on the four items of real estate which made up his real estate assessment, on the basis of \$109,272.44, on the dams \$331,626; [302—18] on the buildings \$100,205; on the machinery \$313,236. The amount was \$13,800 in gold, and \$4.45 silver. In addition to that, upon what was assessed as the railway spur and bridge, I tendered him a sum in addition of \$73.88, which would be the assessment on it on a valuation of \$4,500. The assessor stated that he did not desire the plaintiff to fix in its return the values of its property.

Cross-examination.

(By Mr. ELDER.)

(Witness further continued:) Mr. Bleecker was with me at the time I visited Mr. Wonnacott in his office in June. In the first place I recall no visit to Mr. Wonnacott's office with Mr. Bleecker except on the one occasion I have mentioned, it was, as I have stated, in the month of June, and I would not say whether Mr. Bleecker had been in California prior

(Testimony of John P. Gray.)

to that time, he may have been. Mr. Wannacott did not say to me at that time that he had already assessed the property, he told me that he had been down and looked at that property. I am quite certain that I did not with Mr. Bleecker visit the office of Mr. Wannacott in regard to the taxes of 1911, between the first of July and July 10th, 1911. I said that a statement or list of the property of the company had been delivered prior to that time and contained a statement of power lines of some 24 miles in length in this county; that power line was being constructed at that time and in some way was overlooked in giving the property; it was, however, assessed and the assessment paid upon it; it is not involved in this litigation. The switch station at Cataldo was not included, that was also an [303—19] oversight; the fact is that we were not sure at that time that it was in this county, it was lying near the line; it was subsequently assessed, I understood, and the assessment paid for that year; in that connection I would say that the Washington Water Power owns a great amount of property. It is listed by subdivisions, and covers many pages, and these two items, it is true, were not incorporated. The assessment, however, was paid, taxes were paid upon it. I couldn't say that the tax was paid upon that property; it was not intended to leave out any property of the company. We were dealing then as we always have attempted to deal with the officers of this county, fairly. I cannot tell the value of the power line, I don't pretend to be an expert on values;

(Testimony of John P. Gray.)

I know it was left out inadvertently; I know it was my desire to have all the property included there and assessed; we have never tried to escape taxation; I tendered the money on the real estate, which is one piece of land there, because I didn't know of any method—and I don't think anybody else knows of any—by which you could segregate it. I tendered it and let him apply it just as he wanted to. I didn't care. I was willing to give the county just that much money. On the dams, it is true, I didn't attempt to divide between one dam and another. I didn't know how to do that, and the company never carried those separately. But he was perfectly at liberty to credit them just as he wanted to.

In "Plaintiff's Exhibit No. 9" the first four items are separate descriptions of real estate; they are described practically, for instance, on page 11, book 1 of deeds, situated in Sections 3 and 4—if you will turn to Exhibit No. 1 it will show that the outlines of the property of the company [304—20] at Post Falls are very irregular, and to give it by metes and bounds, each one of those descriptions would be quite lengthy, and the assessor of this county had theretofore adopted that method of describing the property, and I simply took, for convenience, his own method. That will show the book and page of the record of this county where this description is contained. This map seems to show that islands No. 2 and 3 are not contiguous; they are contiguous in the sense that they are separated only by one of the channels of the river, and that land coming from one

(Testimony of John P. Gray.)

of our original grantors was patented under a special act of Congress to Frederick Post, as one tract of land, before the legal surveys were extended.

I did not tender to the assessor of Kootenai County any sum of money on the property described on page 11, book 1, of deeds, situated in Sections 3 and 4. I did not know how I could divide that up; I was willing he should divide it any way he wanted to. I wanted to pay him the money and get a receipt. I didn't separately tender to the Assessor any sum of money as taxes on Island No. 2; I didn't think he had any such thing assessed in that way; I didn't know there was an island called No. 2 when I made that tender; I didn't know of any such island as Island No. 1; I tendered the taxes we conceded were due. I didn't ask him for any receipt or receipt in full. I asked him to take the money. I said it should be received on account of taxes; I didn't state to him, if he received this he received it as taxes on this property. I tried to explain to him that the county ought to be glad to take that much money. [305—21]

Beginning at line six and continuing to the last of the description of the property on page 8 of the bill of complaint to which you refer, is the property which the assessor pretended to assess against the company for that year. I asked Mr. Wannacott to count the money and he said he didn't care to count it; he said he would make no question about that. Mr. Dollar, President of the Exchange National Bank, counted it, and said it was all right; there was no question about that.

[**Testimony of A. J. Wiley, for Plaintiff
(Recalled).**]

A. J. WILEY was recalled to the stand, and testified as follows, on

Cross-examination.

(By Mr. ELDER.)

I am not employed in any manner by the General Electric Company, nor by any of its stockholders. I visited the property of the plaintiff for the purpose of appraising it on July 1st. I spent on the property three or four hours, perhaps longer. I used the plans in getting the size of the dam; the total length is 120 feet, the extreme height 36 feet 6 inches; the top width is 11 feet over all, the bottom width is 28 feet over all. Upstream face vertical, downstream slope for the first 13½ feet is batter decimal .223 in 1. That is 2 tenths of a foot about to the foot. And for the remainder of the dam the batter is .609 in 1. Batter is the slope. There are 2128.1 cubic yards contained in the dam; there is a total excavation of 4645.7 cubic yards. I figured that out myself; I arrived at the amount of excavation by taking the original profiles of the company and using those [306—22] estimating the yardage from that; I actually estimated the yardage myself, assuming only that the original profiles were correct. I figured there were only 200 yards of earth in the excavation, I got that from the notices of the engineer in charge. As I remember, that was on the profiles, 200 yards of earth, and 500 yards of loose rock. All the remainder was solid rock. I

(Testimony of A. J. Wiley.)

figured the earth at 35¢ a yard; the loose rock at 50¢ a yard, and the solid rock at \$1.25 a yard; these costs are simply the original costs. To all of these costs I added, first, 5% for engineering and 10% for supervision and contingencies, making a total of the 15 per cent added to these costs. I disregarded, in estimating this cost, what the company paid for it. From my previous experiences on cost of excavation and cost of concrete I arrived at the amount; this is massive concrete, and I estimated in the different work the concrete all the way from \$7.00 per yard to \$12.00 per yard, depending upon the character of the concrete, but this was the cheapest class of concrete, massive, very little form; I figured a coffer dam at \$488, that was taken from the costs of the company; there is no way of estimating what a coffer dam would cost unless you have been there to see it. I think no pump would be required there—putting a temporary coffer dam above the site the water would be drained off. I figured 2 per cent depreciation per annum for these dams.

The north channel dam is divided into two parts, consisting of the bear-trap section and the tainter gate section. The bear-trap section has a top width of 25 feet, a bottom width of 48 feet, and has a total length of 148 feet [307—23] even. The tainter gate section has a total length of 283 feet, and it is extremely hard to give the dimensions of that because it consists simply of a succession of piers separated by large swinging gates. It hasn't any dimensions except the piers themselves. I can give

(Testimony of A. J. Wiley.)

you the size of the piers and the dimensions between them. Those piers are located on the bedrock. I figured each pier individually and then the connecting part underneath; I did not take the figures as given me by the company, I had the original contour profile. The piers have a top width of 12 feet, an extreme bottom width of 25 feet, and a height of 16 feet, and out of that there is a well 4 feet in diameter and 15 feet deep, also a recess 4 feet wide, to be taken out of the downstream portion of the dam, to a height of 8 feet above the bottom, extending back to a point 9 feet from the upstream face, in other words, to the well of the dam. The portion connecting the piers is 6 feet wide on top, with a slope of 3 to 1 on each side. The cubic contents of each pier is 113 cubic yards. The cubic contents of the whole dam is 4878.5 cubic yards; that includes the entire dam; the cost per cubic yard I estimated at two prices, the massive part, that is the part under the bear-trap dam, I estimated at \$7.00 per yard. The piers have a great deal of form work and I estimated them at \$8.00 per yard, the other is comparatively plain massive work.

I can give you the excavation made at this dam more easily if I give it in subdivisions; the total was 12,004 cubic yards; I estimated 5605 yards of earth at 25¢ a yard; 800 yards of loose rock at 50¢ and 5599 yards of solid rock [308—24] at \$1.25; there was a coffer dam built there estimated at \$1,865. I allowed 2 per cent for depreciation on that; it is popularly supposed to be the fact that the

(Testimony of A. J. Wiley.)

longer this concrete stands the better it gets, it is not always a fact, there is a certain risk about concrete, a great deal of concrete has gone to pieces, but in this case there are other elements in connection with these dams that deteriorate. There is a large amount of wood and iron, all of which deteriorates very rapidly. There is also an element of risk. A dam sometimes fails entirely from flood, and all of that has to be taken into consideration; the items of depreciation would be the gradual deterioration of the work from any cause, and especially the deterioration of the wood and iron work, not the deterioration of the cement work, that is not really considered very seriously, although that is an element which enters into it.

There are about 21,000 footboard measure of woodwork connected with the south channel. A large per cent of these dams is concrete work; I would say that concrete work does not generally depreciate. The depreciation was figured on the iron and woodwork, and a certain part of it to the concrete work. I do not think any structure of cement or masonry will last forever; it has a life of 50 years; it is not a fact that these depreciations are taken care of out of the maintenance fund; the maintenance fund does not apply to the gradual deterioration. You can patch up a thing year after year and keep it in shape but finally that thing will wear out and you finally have to throw it away and buy a new one. I wouldn't admit that with a great deal of machinery they take piece by piece and repair it

(Testimony of A. J. Wiley.)

and [309—25] that it is always a good machine; there will be a time when you have to build a new one.

The middle channel dam is 175 feet in length, its top width is 14 feet and 9 inches; its bottom width is 46 feet; its extreme height is 64 feet. The upstream face is vertical and the downstream face is batter from 14 feet and 9 inches on top to 46 feet on the bottom. The cubical contents of the middle channel dam is 8043.1 of concrete. I figured that at \$7.50 per cubic yard; that is a massive dam but at the same time it has several openings. There was a coffer dam built which I allowed \$1631 for coffer dam. That was an arbitrary amount and was taken from the records of the company; the records showed that amount and is contained in work orders; in many cases I traced right back to the work orders. I was there, as I remember, ten days. I spent the first day on the dam and all the rest of the time I was in the office of the company; a young man named Mather, in the employ of the company, assisted me there; the same depreciation, 2 per cent, was allowed for this dam. The excavation was 51073.9 cubic yards; 200 yards of that was estimated as loose rock; 5873.9 was estimated as solid rock at \$1.25, plus the engineering and supervision costs 15 per cent; the total cost is \$184,906.07; as described to me, when the company bought this property there were already old dams in use there that they took care of the water by simply raising those dams a small amount.

There are 5 general electric generators with a ca-

(Testimony of A. J. Wiley.)

capacity of 2250 kilos each. They are 3 phase, 4 exciters; those generators are worth \$19,600 each at the factory, the freight [310—26] was \$3,141 each. I estimated the cost to put them in place \$1.50 per K. W. hours, or \$16,875 for the five; I did not take that from the books of the company, that is my own estimate. I called the cost of the railroad that is built to get those transformers over there the hauling, in all plants there is usually a freight haul from the railroad depot to the plants, and in this case instead of figuring so much for hauling I allowed half the cost to the railroad spur, charged $\frac{1}{2}$ the cost to the generator and $\frac{1}{2}$ to the turbine; divided it between the two items, that is a separate item. I since compared those items with the figures of the Washington Water Power Company; they compared very closely. I took the cost of all the machinery from their original bills, I have forgotten the number of panels of the switchboard. I would say it was about a ten panel switchboard. There is a generator panel for each machine; there is also an exciter panel for the exciters, and there are the feeder panels also, a fully equipped switchboard in every respect, bench-board, type switchboard. I would say it was a modern, up to date plant. There is all equipment and arrangements made for six units, except the generator itself and the turbines. The factory cost of those turbines was \$19,500, each, complete, feeder-pipe and draft tubes. The cost of the freight was \$2,926 each; the cost of hauling, in other words, its share of the railroad spur was \$1,930.20 each. The

(Testimony of A. J. Wiley.)

cost of installation was \$4,613 each, that was the total cost of each of them; the total cost in place of each of them is \$30,619. I would like to add to that, to these figures as to the others, 6 per cent has been added to all machinery cost, 2 per cent for engineering and 4 per cent for [311—27] supervision and contingencies, to all machinery costs. This \$30,619 plus 6% for engineering is the sum I figured each of these turbines cost. I arrived at the sum of \$19,030 as the portion of the transportation charge by taking the cost of the railroad spur, estimating the total cost at \$19,424.97 and dividing that evenly between the hydraulic and electrical machinery, and then I divided that by 5 to get the cost of hauling of one turbine. The freight cost was \$14,630 on the 5 turbines; they have six, three phase transformers, the value of each in place is \$7,853.00, I estimated six main transformers; in the main generator station there are other transformers, secondary transformers, I have put that in a lump sum, along with the electric conduit wiring, switchboard, etc. The total amount is \$36,072.33. I find those transformers are not listed, and in my list here I don't think they belonged to the company, but my understanding was that those other transformers are not the property of the company; at least they are not listed in my list. They are in the building, but I think they don't belong to the company. I didn't figure them; they are not included in that \$36,00. The low tension bus-bars is included in this list of \$36,072.33. A large amount of the miscellaneous material is storage

(Testimony of A. J. Wiley.)

batteries, heating plant and cooling system and frequency indicators, extra storage batteries, all aggregating \$36,072.33. That is not an estimate *is* was taken from the actual records of the company. It is very difficult to estimate correctly all minutiae; in fact, that is why estimates on power plants are frequently underestimated, because so much is left out on account of the difficulty. This was taken from the [312—28] records of the company, and includes everything; I looked it up, saw it and verified it. After I saw and secured the records of the company in regard to what they had in this plant and the valuation, I did not verify it by making a physical examination of the plant with respect to a few items such as this one I have just given you, \$36,000.00. I did on everything else practically; all the larger items I verified myself; that \$36,000 does not include the high tension equipment, that comes under another head; it does not include the exciters; they were included with the generators in my estimate, a separate item in the estimate. There were 4 exciters at \$1400.00, \$5600.00. In estimating the cost or the value of this property I didn't consider it in connection with the property and with the company's property as a going concern. I simply estimated what it could be produced for. The high tension switches and lightning arresters were not included in that \$36,000; the low tension switches were included; the amount of the high tension equipment is \$29,130.08 plus the 6 per cent; that is all the high tension equipment I have estimated, exclusive of the

(Testimony of A. J. Wiley.)

transformers. I considered that a part of the low tension equipment; I didn't include any transmission lines or anything of this kind in my estimate. There are two cranes, one 30 ton electric crane, and one 10 ton hand crane not included in that \$36,000. The 30 ton crane cost in place \$4,757.74 and the 10 ton crane \$1,475; I took that from the original cost from the records of the company, and estimated the cost of erecting them. I did not then allow 2 per cent depreciation, that is the original cost. I added to that 2 per cent [313—29] and 4 per cent for engineering and supervision. In arriving at the cost of the plant I did not allow 2 per cent for depreciation.

The length of the power-house is 173 feet and 2 inches. The width is 82 feet and 9 inches. There is another L to the power-house, whose length is 76 feet 5 inches, width 32 feet 4 inches, and 65 feet in height over all at the downstream face. I cannot give the cubical contents. I didn't estimate it in that way. The total cost of construction is \$134,556.28, that is, of the power-house I have described, all exclusive of the high tension buildings. That includes the piers under the house; it does not include the excavation, cost of the middle channel dam included the excavation for the power-house. It is not reinforced concrete under this building. It is practically all plain concrete; the cost of the high tension building I cannot give exactly. I have the cost of the high tension building alone at \$21,309.11, but that does not include any engineering or supervision. I estimated the high tension building and equipment together and

(Testimony of A. J. Wiley.)

added the percentage after the two were put together. I inquired of the employee of the company who had particular charge of the cost of the plant, in regard to the cost of labor and material around Post Falls; in other words, I took practically the records of the company on that. I have not included in considering the costs of the plant, any legal expenses nor any insurances. I took into consideration interest on the construction cost for one-half the time during which the plant had been constructed. I took it on each one separately, I can give it to you on each one separately. I figured 8 per cent for 6 months, I estimated [314—30] that the plant would reasonably take one year to construct, and I allowed 8 per cent on one-half on the entire construction of each item.

Redirect Examination.

(By Mr. GRAY.)

(Witness further testified:) The profiles and plats which I have referred to were the original records of the company. I would define obsolescence as being an allowance made for the inadequacy of the plant, for the fact that since the plant had been constructed it had advanced to such a state that the equipment was no longer up to modern times, and could not compete with more modern machinery, and would have to be replaced in order to give satisfactory service. That is included under part of depreciation.

[**Testimony of C. F. Uhden, for Plaintiff
(Recalled).**]

C. F. UHDEN was recalled and testified upon
Direct Examination.

(By Mr. GRAY.)

At the time the company purchased the property at each channel there was a timber dam built, and on top of these timber dams we erected cribs; these cribs were about 10 feet high and we used them for our coffer dams. The profiles, plans and maps that Mr. Wiley has used and referred to were the original plans and profiles of that work and improvement, and were turned over to him for his inspection; they are under my supervision and control. The work order which I referred to this morning and which I traced into the general ledger was representative of the system which was employed there in that construction; there were approximately [315—31] 130 such orders. I have some of the work orders, not all of them. The other orders will be here; I do not believe Mr. Wiley had the original way bills; he had the carbon copies, which have been kept in my office since the construction of the plant.

Cross-examination.

(By Mr. ELDER.)

(Witness proceeded:) I was in charge of the construction work. I had direct charge of this work at Post Falls. I was under Mr. McCalla; he had something to say about that work; he was my superior. Mr. McCalla had supervision and control of all the

(Testimony of C. F. Uhden.)

work. Mr. Huntington is over Mr. McCalla, and the Board of Directors over Mr. Huntington. A contract was let for the work to start with to Bennett & Beeler. I cannot tell in dollars and cents how much work they did there. I was not working for them; their work is included in my estimate of the cost of that plant from my work orders which cover their work; as to whether a man had a contract or not would make no difference as to the number of work orders we would open up; for instance, take the south channel dam; I would open up a work order for excavation on the south channel dam; I would open up another for concrete in the south channel dam, and another for installing gates, etc.; the engineer in charge of the work makes his estimates and turns those estimates into the office and they are placed in the books and charged to the proper work order. Bennett & Beeler did a certain portion of the work, the company issued work orders, and as certain work was done, either concrete or excavation, it was charged to the work order for the particular dam. I have not that contract here. That contract [316—32] covered the whole plant so far as the concrete and excavation was concerned. I do not remember the amount of the contract; it was quite a lengthy contract; it didn't specify the actual number of yards, just gave an estimate of the number of yards of rock or earth to be excavated, and the approximate number of yards of concrete, and they made a bid or certain price for rock excavated, dry or wet, and a certain price for concrete laid dry or wet, making a

(Testimony of C. F. Uhden.)

certain price for the different points at which it might be placed. I cannot give those prices to you. I could by sending to Spokane and getting the contract.

I will explain why the company issued work orders under the contract of Bennett & Beeler in this way: Supposing you were going to dig a well, I will give you a contract for \$100 to dig that well; I want to keep track of how much dirt you take out of there, and I want to keep track of the curbing you put in there. I will issue two work orders, one for excavation and one for curbing. During one month you take out a certain amount of earth, and I make my estimate and put that in the work order for the excavation of the well. If you put any curbing in that well during that month I make an estimate of that and charge that to that particular order, and so on down till you get to the bottom of that well. When you get through I have got that segregated into two work orders, and I pay you so much per foot for sinking that well. The work orders were simply estimates the same as under any contract, and at the end of each month an estimate is made and the contract is given a certain percentage of the work done; it made no difference [317—33] to our company what the cost to Bennett & Beeler was. In a work order for Bennett & Beeler what I did would be to estimate the amount of yards of work done on a certain dam, and they would be paid for that amount of excavation that month, and on another work order the number of yards of concrete laid and that would

(Testimony of C. F. Uhden.)

be paid for that month; that is all the work order would show. It wouldn't show the labor.

It is not a fact that Bennett & Beeler took a contract which provided that they should do this work for a reasonable sum, the amount of yardage was not figured in the contract. The yardage was estimated, it may run over or it may run under the estimate, and we paid so much a yard for all the work they did, I couldn't tell how much off-hand, for the reason that the excavation wet and the excavation dry are different prices at different places, and in order to give you that I would have to have the contract; the work orders would not show but would show the number of yards that were put in, and give the lump sum. I find I was mistaken in stating that the work order didn't give a price per yard, I find it does give the final estimate here. We paid for solid rock, 89¢ a yard; for loose rock, 53¢; for concrete placed in the dam, \$5.65 a yard; for the concrete placed in the piers which form a part of the power-house foundation, \$6.60 a yard. Bennett & Beeler did not complete their contract. The work was not being done to the satisfaction of the company, the company took over the work. The company did not pay Bennett & Beeler any additional sum other than the contract price for the work they completed, so far as I know. They were not paid several thousand dollars to give up the contract. I could not say whether they were [318—34] going behind or not; it was the opinion of the company that the work was not progressing

(Testimony of C. F. Uhden.)

as fast as it should. In arriving at the cost to the company, I determined the amount of solid rock which was excavated, I can give you the average cost of solid rock, loose rock, and earth on the south channel dam; it was 84¢; the total amount of excavation there was 4,646 yards; about 87 per cent solid rock, 10 per cent loose rock and 3 per cent earth. Bennett & Beeler did all the excavation of that work. The total amount of excavation on the north channel was 10,259 yards. of which 50,959 yards were solid rock, which cost on an average of \$1.31 per yard; 800 yards of loose rock, 50 cents per yard; 3,500 yards of earth at 22 cents per yard. On the middle channel dam the total amount of excavation was 51,681 yards, with an average price of just a fraction less than 89 cents; that work was done mostly by Bennett & Beeler; there were 50,117 yards of rock in that which shows that practically all of it was solid rock; their contract was 89¢ for solid rock; the reason the price was less there were 200 yards of loose rock in it. There was an amount charged against the construction of this dam for the services of Mr. MacCalla, as general manager of the company. I couldn't tell you how much for I haven't the payroll with me. My work order for engineering, superintendence and drafting will give you the total amount, the charge of all the men that worked on it. For instance, I have in the drafting room 32 men. They work on different work, and a great many of them were working on the Post Falls job. At that time,

(Testimony of C. F. Uhden.)

of course, we didn't have as many as we have now. Part of my time is charged to it, [319—35] part of Mr. MacCalla's and part of the other officers, but I cannot give you the amount. The salary of Mr. Huntington, as president of the company was charged proportionately to the construction of the Post Falls dams. The salaries of every officer of the company is proportioned at the end of the month through the different work orders which we have opened up, and also for office expenses. I couldn't tell you how much of Mr. Huntington's salary was charged; the carbons simply charged to me so much labor; that labor of the men includes labor of the office force. I couldn't tell exactly how it is divided up. I presume the auditor of the company could tell. I couldn't tell you whether in determining this cost legal expenses are included; I do not know. I know the amounts which are chargeable against the Post Falls dam in so far as the work orders show; they show simply a lump sum for labor; they itemize the materials; the labor is itemized in the payroll. I figured interest as one of the items this morning; the auditor gave me that, the amount of interest charged against the plant during construction. In my figures I used the carbon copies which were sent to me at the time of the work orders, and information that the auditor gave me. I have the total that went to administration and superintendence and engineering in the course of that construction, from all of the pay-rolls and work orders. This was to be given

(Testimony of C. F. Uhden.)

up to January 1st, 1911. This sheet I have here brings it up to June 1st, 1912, making a total amount of engineering \$35,600; administration and management would come under that. This auditor's memorandum shows the original entry of interest on [320—36] construction, shown on our ledger. The book which I testified from is simply a loose-leaf memorandum-book of figures which I compiled myself. That \$35,000 item covered from the time of the starting of the construction of the plant up to June 1st of this year. Also the preliminary work in the way of engineering work done prior to the time the construction was started; the first contour map that was made was charged to that; the engineering since the construction has been very small. The administration, superintendence and engineering charges are included in the item of labor. I know simply from the rules of the company; my salary and the salaries of other engineers and the superintendent would not appear upon one particular structure, because that structure is part of the entire plant; at the end of each month the salaries of all of the officials of the company are divided and charged into a work order similar to that, which I have opened up for engineering, superintendence and drafting. The only thing I can show on this one is the proportionate amount of the engineer who was in charge on the job, his proportion that was charged to this particular work order. I can't produce one here that will show you, for instance, the percentage of Mr.

(Testimony of C. F. Uhden.)

MacCalla's salary, who was general manager of the company, that is charged to the job, because that comes in on the regular payroll each month, and is turned in to the engineering work order which I have opened. It is entered from the payroll into the work order sheet.

I have no work order sheet except the one referring to this particular order here, which shows here, outside of the men who were working on the job, a charge of \$12.50 for [321—37] the salary of W. C. Weeks, who was in charge of the works at that time. His salary is distributed at the rate of \$12.50 on this. My salary is charged into the engineering order. When I close all the work orders for the job, I take a certain per cent of my salary and put it into dams, a certain per cent into powerhouse, and a certain per cent into machinery. I use my own judgment and make calculations accordingly.

I have here work order 1061, which is one of the work orders of engineering expense. The total amount of labor is \$310.18. Now, as to how much of any one person's salary is charged in that I couldn't tell without the payroll, but that does include some of the official expenses.

[Testimony of George B. Colpas, for Plaintiff.]

GEO. B. COLPAS was called as a witness for plaintiff, after being sworn, testified upon

Direct Examination.

(By Mr. GRAY.)

I reside at Spokane. I have our books showing

(Testimony of George B. Colpas.)

the entries of interest on construction. I am auditor of the Washington Water Power Company, and I have held that position since July 1st, 1907. My duties are keeping the books of the company. I have an account for the construction of the Post Falls plant. In that account I computed and made a charge for the interest during construction for the year 1906; for 1905 the treasurer made the entry; I do not know who computed it; that entry was made in the main ledger of the company. The total of the interest that we paid on loans for construction purposes for the year 1905 was \$25,859.19; that was not all charged to the Post Falls plant; [322—38] in 1905 the \$25,859.19 was divided up and \$13,610.10 charged to the Post Falls property; for 1906 the total interest paid was divided up to the construction accounts, the Post Falls plant taking \$20,960.-69; those were the interest charges charged to the Post Falls plant; those figures are from the regular records of the company, which I had in my possession.

Cross-examination.

(By Mr. ELDER.)

(Witness proceeded:) The division in 1905 was divided on the basis of what money had been expended on the Post Falls plant and on the building of our new interurban line, each part taking its share of the interest. Up to the end of 1905 there was \$113,426.84 expended on the power plant, and, in addition, we had expended \$69,219.30 on the water rights. That is, the land for the Post Falls

(Testimony of George B. Colpas.)

development, all of the land around Post Falls for the development of the property was included in this charge of \$69,219.30; that was the total sum paid for the land around Post Falls; up to that time the rate of interest varied, which the company had to pay; our bonds are 5 per cent; they were then and are now. We sold temporary notes, on which we paid five per cent. The various rates paid by the company as interest charges on the Post Falls in 1905 was five per cent. Not all of the money which was used in the construction work for 1905 was at five per cent. I can't say what the maximum rate would be, but the five per cent covered a large part of the loans. Anything in excess of five per cent would be on possibly only small loans that wouldn't cut much figure. The fact is that practically all of the money was secured at the same rate [323—39] of interest, and the same rate of interest was used in 1906 and practically all interest that year was secured at the rate of five per cent. At the end of 1906 the Post Falls plant stood on our books at \$795,107.06; \$69,272.44 of that was expended for lands; the figures that I am giving you there were not all expended that year; that is what was expended for all the time up to the end of that year. From the commencement of the plant I cannot give you how much was expended on preliminary surveys. I can't give the amount that was expended for labor without going into the details of the work. The cost of preliminary surveys is included in that figure as also the labor and all

(Testimony of George B. Colpas.)

salaries. I can't segregate them, but I say it will take a pile of papers five feet high; the papers are all here. The information that I can give you in regard to this \$795,107.06 is that it is the cost as footed on your books of the construction of the plant. I believe the plant was completed in 1906. I cannot speak for sure whether it was completed so as to be put into operation; there were two accounts kept, one for the development of the building and the dam, one for the property; this ledger shows the property account; it was started in January, 1902, the \$52,000 item was closed into our general property account in 1902; then this account was opened up and we paid \$17,206.17 additional to that making \$69,000; there are probably twenty-five different jobs on the Post Falls development, and these amounts represent the total amount of each of those jobs each month. That includes the preliminary expense, the hydraulic machinery, the dams, and the cement, [324—40] and the buildings. Each month the cost of the entire building of the plant is posted in here, and that consisted of twenty or twenty-five different work orders. That is the end of it there (indicating on ledger to the court), \$749,000. After that period, or commencing in 1907, the classification for distributing electrical machinery was decided on, and that is kept in another account. I have the records of that, Station buildings, commencing in 1908 there was \$749.33 chargeable to the Post Falls plant; in 1909 there was \$25,600.30; in 1910 there was \$26,000; in 1911

(Testimony of George B. Colpas.)

there was \$6,000. There has been \$58,000 additional charged to the Post Falls buildings since the close of this account, that was for the station buildings. Then we have the station apparatus. To January 1st, 1911, the total cost charged to that plant was \$1,068,844.90; the amount to January 1st, 1912, was \$1,088,604.01. I won't be sure that I can give you the exact figures of the expenses in making the preliminary surveys. The item of \$1,068,844.90 includes the real estate; it includes all the cost of the plant at Post Falls up to that time. I do not know that in the purchase of the water rights and land the company granted or contracted to deliver to Mr. Strathern so many horse power of electricity. I do not think my books show anything of that kind in the ledger. I do not know that the company granted to Mr. Martin an amount of power.

Mr. GRAY.—We admit that, and we presume you also admit that you have taxed Mr. Strathern and Mr. Martin for it.

Mr. ELDER.—I don't admit any such thing; it don't make any [325—41] difference; it has nothing to do with the value of this.

Mr. POST.—We will furnish the evidence.

WITNESS.—I do not know if any power is being delivered without consideration to Mr. Martin and Mr. Strathern as part of the purchase price of their land and water rights at Post Falls. The first charge was made in August, 1904, the first work order may have been issued a month or so before

(Testimony of George B. Colpas.)

that, or a year before that; the only expense was for the purchase of the land prior to that time; there was no expense prior to that time covering engineer's engineering expenses. There is nothing, not any charge in that amount as given for the total cost of this plant the first of January, 1911, which includes the purchase of water rights around the Lake. I do not know that we have charged any sum for the purchase of reservoir rights to this Post Falls plant. I do not know that any legal expenses in condemnation of lands for a reservoir site is included in that amount. I do not say that there is a charge there for that. I may locate one; the general ledger only shows the total cost of the plant.

Redirect Examination.

(By Mr. GRAY.)

(Witness continued:) In answer to a question by the Court I said that in the Post Falls property account we had a total of \$69,000 and some dollars; that was up to January 1st, 1907; of the total of \$1,068,000, \$109,272.44 was for real estate; the difference of \$40,000 is represented by additional land which was purchased there subsequent to the 1st of January, 1907, purchased in 1909. [326—42]

[**Testimony of C. F. Uhdén, for Plaintiff (Recalled
—Cross-examination).**]

C. F. UHDEN was recalled and testified as follows, on

Cross-examination.

(By Mr. ELDER.)

I stated yesterday that the total cost of engineering charged to the Post Falls plant was \$35,600. I cannot give you each separate item included in that item, but just generally what is included; in that item would be included a portion of the supply department expenses at Spokane and the engineer in charge of the Post Falls work, and assistants under him, and drafting-room expenses, and yesterday I stated that also some of the general officials of the company who were above me, and in looking up the records of the company who were above me, and in looking up the records last night I find that I am mistaken in that matter; their salary is charged on to some other order of the company and divided in among the other—at that time, among other accounts. I can't enumerate all the other accounts to you; it was simply an arbitrary division; no part of their salary was charged to the Post Falls work; none of the general manager's salary was charged; none of mine was either and I had charge of that work. I spent the greater part of my time at Spokane, visiting the plant from three to four times a week. I cannot tell you how much of my time was spent on that work during the construction of that plant at Post Falls nor approximately.

360 *The Washington Water Power Company vs.*
(Testimony of C. F. Uhden.)

We had Mr. Hershell of New York here, a consulting engineer, who looked over the proposition. I cannot tell you offhand the charges he made against the company, which were charged to this work. Captain Powell drew the plans for the North Channel dam; my recollection is that his services were charged in the sum of \$500.00. I think he was there about two or three days; [327—43] he was the only other consulting engineer I remember of; the bear-trap dam is on the north channel; the dam consists of 10 gates. Some of these gates are ten feet high, and the base under them is about two feet of concrete, so that would make the piers on the side of which Mr. Wylie gave you the dimensions yesterday, gives you the depth at that particular point. The bear-trap dam is the dam that collapses; it is raised and lowered by water pressure, and consists of three leaves. The water is turned in through one of the valves underneath these three leaves, and they rise, and a downstream valve is opened, and the upstream valve is closed, allowing the water underneath to escape, and the leaves collapse and the dam opens. The crest of the dam above sea level is 2116 and a fraction feet; that is the top of the concrete work beneath the bear trap. I do not know the per cent customary in the putting in of the hydro-electrical plant similar to this at Post Falls figured for engineering expenses.

Redirect Examination.

(By Mr. GRAY.)

My recollection is that my salary varied during

(Testimony of C. F. Uhden.)

the period of construction from \$65 to \$150 per month.

Cross-examination.

(By Mr. ELDER.)

I could not tell you offhand how many men we had in the field during the construction of this dam, for the simple reason that we took some men out of the drafting-room at Spokane at different times, and sent them up there to get such information as we wanted; my recollection is that that was charged against the Post Falls plant; they were there just a few days; it would take only a few days to get all the data which we would require to install the plant, to make the [323—44] preliminary drawings. We had access to a previous survey that had been made by other engineers, which expense we were not put to, which we ordinarily would have been. My recollection is that the plans were drawn by a man by the name of Riblett; those plans were turned over to us at the time we made the purchase.

[**Testimony of A. J. Wiley, for Plaintiff
(Recalled).]**

A. J. WILEY was recalled and testified upon

Direct Examination.

(By Mr. GRAY.)

I was asked on cross-examination whether I had made any allowance for legal expenses or for insurance during construction. I stated that I had not. I meant there was no special, extra account for that, no special item, but that I had included it in my

(Testimony of A. J. Wiley.)

item of ten per cent and four per cent for supervision and contingencies. I never, in estimating, carry insurance or legal expense, but carry them in overhead charges. I allowed ten per cent for the construction work and four per cent for the machinery; that is a common engineering practice; that is in addition to the engineering itself, and based upon my experience that is a proper sum to allow for an item such as that. I always use five per cent for construction work, and about two per cent for machinery, and in which the engineering expenses are largely included, my estimates would include that.

Cross-examination.

(By Mr. ELDER.)

By the word "plant," I would include everything in connection with the development, including dams, power-houses, buildings, machinery, every item necessary to the operation [329—45] of the plant, but not transmission lines; very many plants are operated entirely without reservoirs, from the normal flow of the stream, and many plants have no transmission lines, because all the output is used nearly at the plant, and, in general, it is conceded that the plant itself does not include transmission lines or any outside auxiliaries.

[**Testimony of John B. Fiskén, for Plaintiff
(Recalled—Cross-examination).**]

JOHN B. FISKÉN was recalled and on
Cross-examination.

(By Mr. WERNETTE.)

(Testified:) I graduated at Glasgow, a branch of the London institution. I was assisting in the operation of the Seattle Gas Company's electric plant while at Aberdeen; from there I went to Tacoma for a couple of weeks; I was installing a couple of buildings there; I was at Victoria for the first six months of 1887, in charge of a plant there; I was in Vancouver for one month in charge of the installation of the C. P. R. Hotel. I came to Spokane the 1st of August, 1887. I came there before the Washington Water Power Company was formed. I started to work for the company the day it was formed, and have been working for them ever since with the exception of about one year; I have acted as manager, lineman, collector, bookkeeper, superintendent; that was in the early days when two of us ran the plant. I have done some engineering work for them in the construction of the railroads. I have done considerable engineering work around the development of the power in Spokane. I have had charge of the construction of about four stations in Spokane, and I had entire charge of the electrical construction of the present Spokane plant. I [330—46] didn't have anything to do with the hydraulic work there, in the construction of that plant.

(Testimony of John B. Fisk.)

I am now superintendent of light and power, and have been engaged in that capacity for about two years. I have three assistants, each one in charge of a particular part of the work, each assistant has a staff of assistant engineers and clerks under him. I have a general office, with a head clerk and four or five men under him, varying according to the amount of work we are doing. My assistants do not incur any expenses exceeding a small amount, about \$10 for any job, without consulting me, and they report to me after the job is done what it has cost. I do not check over each bill that is incurred by my assistants in that way; the larger bills I pass on myself. I would consider a large bill anything over \$10; I do not personally check up the amount of electricity that is furnished by the Post Falls plant to the various companies and corporations which purchase the power. I couldn't give you the names of the persons who do that; there are about 15 or 16 men, I should say, engaged in that. I can get the names. I obtained the information about which I testified as to the total output of the company at Post Falls from the records of the company; those records were made up by someone under me; it may have been one of my assistants; some of them may have been made by their clerks, and some by the foremen in the plants. I do not know personally whether or not those records are correct; it would be absolutely impossible for me to know that; the loss in the amount of power that is sent to Shoshone County is ten per cent. I mean by that ten per cent of the

(Testimony of John B. Fiske.)

power that is generated is lost in the lines and in the step-up transformers and the [331—47] step-down transformers, that is a low estimate; it wouldn't be less; I know that from the figures that have been made on the line. We take charge of the loss to our customers' meters and pay for it; that is not true in all instances of the power that is furnished from Post Falls; we supply power to the Inland Empire Railway System at the switchboard; we supply power to Mr. Martin at the switchboard, to Mr. Strathern and the Kootenai Power Company; the loss in sending the power to Spokane is about ten per cent; there is a 25 per cent loss in conversion; we have to convert the alternating current power into direct current power for use in Spokane; as the power is converted it is put on the bus-bars in Spokane along with the current generated in Spokane, and is then sent out to the customers through their distribution system, and before that electric current can be consumed there would be another loss. I should say that the loss there would be probably an average of about 15 per cent; some of it would be less and some more. There would be but a small loss where the current or power is delivered at the switchboard, as in the case of the power furnished to Mr. Martin, Mr. Strathern and the Kootenai Power Company, there would be practically no loss. There is a difference as to the amount of loss, depending on the length of the power line over which the power is sent; the power line from the Post Falls plant to the mining district up in Shoshone County is about

(Testimony of John B. Fisk.)

65 miles from the Post Falls plant; to Spokane about 26 miles, approximately. I think the loss is greater from Post Falls to Spokane than from Post Falls to the mining district; the wire is smaller and the amount of current over it is greater in proportion to the size of the wire; the wire from the plant up to Shoshone County is [332—48] smaller; the wire is twice the size from the plant to Spokane. All our transmission lines leaving Post Falls are 60,000 volts; in the years I testified to the number of kilowatt hours that were produced at the Post Falls plant has increased each year. In 1909 there was an increase of a little over 20 per cent; in 1910 there was an increase of about 18 per cent. Part of the wire that is used on the transmission line from Post Falls to Shoshone County is number 0 copper, and part of it is number 00 aluminum; part of the wire from Post Falls to Spokane is number 2 copper, and part of it is number 0 aluminum. We have had during the time I have been employed a second line to Spokane, and we have a second one to Shoshone, which also supplies the Palouse country; that is held as reserve; in case of trouble in one line we use that. During the last three years we have been furnishing power over one of those lines to the Palouse country. I can't tell you how much power. I would have to go to the records to find that. I can from our records state the amount of power furnished from the plant to the Palouse country in the last three years. It took me about six weeks to get the information I testified to yesterday as to the amount

(Testimony of John B. Fischen.)

of kilowatt hours furnished to Shoshone County each year, and to Mr. Martin and Mr. Strathern and to the Kootenai Power Company and the balance that was sent to Spokane. I figured the amount furnished to Shoshone County and to Spokane; that is all we figured; we have at times furnished other power in addition to those places I gave yesterday; the entire number of kilowatt hours that had been furnished in the last three years by that plant. We included the amount of electricity furnished to the Palouse country in the power delivered to Spokane; as a general rule, we supply [333—49] most of the Palouse country from Little Falls, occasionally a little from Post Falls. At the same time, when the amount supplied to Spokane is, to a certain extent, estimated, and the amount supplied to the Palouse country would be a very small amount, it could be accurately ascertained, but it would take a long while to do that, but I included in the amount sent to Spokane in my examination yesterday. The amount I testified to yesterday was the entire output of the plant.

Redirect Examination.

(By Mr. GRAY.)

All the time we are shipping power from Little Falls into Shoshone County; we have been doing that for a good many months; the object in having the plants tied together is so that we can divide the power between the different plants, and in case of injury to one or the other the other plant picks up the load. I believe on one or two occasions when we have had

(Testimony of John B. Fischen.)

trouble on our lines between Post Falls and the mines we have sent all the power to the mines from Little Falls; this is an emergency service.

Under my supervision comes the question of maintenance of the dams, buildings and machinery at Post Falls. I can give the actual cost of maintenance of the buildings and machinery at Post Falls for the years 1910 and 1911; I get this information from the charges made on the books of the company against our maintenance account, from the original records. The maintenance charge covering the buildings, machinery and the dams was \$10,587.45 for that year, the cost of maintenance on the transmission lines was \$15,827.85; those are the lines both in Shoshone and Kootenai counties. [334—50] In the maintenance of machinery there are generators and exciters, the step-up and step-down transformers, switchboards, and electrical appliances, water-wheels and governors, and miscellaneous equipment, which would include pumps and motors. The buildings would include station building itself, the store building, the operators' houses; we charge the repair of the exciters to maintenance; if we break a brushholder, we charge that to maintenance; any repairs made on the exciters are charged to maintenance. All our expense in the maintenance of transformers is cleaning the water-cooling coils; we have to clean them at regular intervals, and sometimes it costs quite a little money to do it. In case we have to put in any new coils that is charged. I have every reason to believe those amounts are correct; to the best

(Testimony of John B. Fischen.)

of my knowledge they are absolutely correct, but I do not know. In other words, those amounts are placed on the books of the corporation by various bookkeepers and by different men in charge, and amounts are placed in there that I know nothing about. It is not a fact that there is only a very small proportion of the different figures and accounts that I have testified to that I know are correct.

All of the larger items I know about personally, I would estimate 75 per cent. The small amounts I don't pretend to keep track of the details of. Part of the amounts I have given includes the transmission lines running from Post Falls to Spokane; the part from Post Falls to the state line I have those amounts only partly segregated. Part of the amount expended on the line between Post Falls and state line is pro-rated by mileage; the amount I have charged for maintenance to the transmission lines running from Post Falls to Shoshone [335—51] county includes the entire lines. The testimony I have given in regard to the maintenance of the machinery and buildings is based entirely upon the records of the company. I have not secured any amount in these various sums I have given in the way of depreciation. I did not keep that item at all; I have nothing to do with it. ,

[Testimony of Frederick Burbridge, for Plaintiff.]

FREDERICK BURBRIDGE was called as a witness by the plaintiff and testified as follows, on

Direct Examination.

(By Mr. POST.)

My name is Frederick Burbridge. I am a mining engineer and have been engaged in that profession for about 26 years. I am familiar with the mines of Shoshone County and have been for about 24 years; from 1893 to 1901 I was in the employ of the Bunker Hill & Sullivan in various capacities, starting with them as assayer and winding up as manager of the Frisco mine, and also assistant manager of the Federal mines. I have been president and manager of the Coeur d'Alene Development Company, operating in that district, and then I have interests in some other prospects around about the country.

I am aware of the fact that the Washington Water Power Company furnishes power for the mines in the Shoshone County. I was one of the contractors with them on their first installation. The mines of the Coeur d'Alene district, of course, are no different from those of other districts in that their life is uncertain factor; they have no stated life; some of the earliest developed mines there were the Tiger-Poorman mines at Burke, which had an active career for about [336—52] 19 years, and then were shut down and abandoned, and have remained shut down ever since, since 1907. The same is substantially true of the Frisco mine; that was in operation for about 18 years, and shut down in 1907, and has not

(Testimony of Frederick Burbridge.)

been reopened. Both of those mines—the Tiger-Poorman and the Frisco,—were customers of the Washington Water Power Company, and used power up to the time of their shutting down, and then, of course, had to abandon their contracts. The Tiger-Poorman was a large property, as also the Frisco. The Coeur d'Alene Development Company was not as large as the others but had a life of 4 years. The Tiger-Poorman ended about 5 years ago, as also the Frisco and the Coeur d'Alene Development Company about 7 or 8 years ago. During the last 7 or 8 years I think no other large property in that country ceased to produce.

The facts are, in connection with the Morning mine, that the mine is on the ragged edge all the time. It is never a large profit maker, and only makes a profit when the prices of lead and silver are high, and if the price should decline materially it would have to shut down. There are two other mines in the district which have been very large producers for a great many years, but their end is near. It is reported in the annual report of the Federal Mining Company that what they call their Mace mines, the Standard and Mammoth, are nearing their end.

The Federal Company at Wardner had certain ores above a certain level reserved in settlement of its disputes with the Bunker Hill & Sullivan, and those and others are approaching their end. In another year or so they will probably [337—53] have worked that ground out. The Hercules is a large

(Testimony of Frederick Burbridge.)

mine that has come into existence as an active producer during the last ten years, and the Hecla also, although it was a producer in a small way prior to that; the Hecla's career has been practically within the last ten years, during the last five years the only mines that have come in of any importance are the Stewart and Caledonia and Ontario, all of them in the Wardner District. None of those can be classed, so far, as a very large mine. The mines that we hear most about in the Coeur d'Alenes are those that have been large and steady producers. There are a great many others who have brief unprofitable careers and are very little heard of. In a general way, I may say that a mine that has a life of ten or twelve years is a pretty good mine. Some of those up there, as I have said, have had a career of 19 or 20 years. The Bunker Hill has been in operation over 20 years, those are exceptional mines. The Hercules mine will probably have a life of 20 years, but I don't know of any other of which I could predict that.

There has naturally been a steady and rapid increase in the consumption of electric power there, because, prior to ten or twelve years ago, there was none of it used, and they built their line under a contract of a minimum of 1500 horse-power, and the mines that took it first began to increase their consumption, and other mines gradually came in until practically all the producing mines are equipped with electricity. Their growth will not be as great in the future, and whether it will grow at all I am

(Testimony of Frederick Burbridge.)

not able to predict; I rather fancy that it will not. I think that because the Coeur d'Alene country has passed the high-water mark of its productivity. [338—54] The annual production has been decreasing.

Cross-examination.

(By Mr. ELDER.)

It is not a fact that the production of the mines of the Coeur d'Alenes have increased up to the present time; they have been decreasing about five years. A great many of them use electricity. I do not know whether there has been a steady increase in the demand for electricity, but I know it has been a great deal more than it was a few years ago, and the only reason that I have based my opinion on that there may not be in the future a demand for electricity is that I believe the mining country has passed its high point. I am not now working for any of them. I am a consulting engineer and open to engagement by anybody. There are a great many of good mines in that district yet; it is one of the noted mining districts of the country. I have considered the mines which have been discovered right along in that district that have come in within the last few years; there have been a great many come in in number but not so much in production; there are possibilities for the district, most assuredly. If it were not for the fact that there are those possibilities, I should say the district would be dead and forgotten in 20 years.

[**Testimony of John B. Fiskén, for Plaintiff
(Recalled).**]

JOHN B. FISKÉN was recalled and testified upon

Direct Examination.

(By Mr. GRAY.)

We have a large number of substations in Shoshone County; the maintenance of the buildings for substations there was [339—55] \$110.97 and of the apparatus \$4,287.87. In 1911 I think we had 11 substations that year. In round figures it amounts to approximately \$400 apiece.

Cross-examination.

(By Mr. WERNETTE.)

I have orders showing all of the details of the material, in regard to the maintenance of the substations in Shoshone County, and a lump sum on the labor. I have the payrolls and the distribution sheets that show the details of the labor, with the names of the men, the hours they worked, and the rate. I do not know of my own knowledge as to whether those are correct. I do not know who made the entries on the books. I do not know when they were placed on the books. I am testifying from what the records show.

Redirect Examination.

(By Mr. GRAY.)

The records are the original records of the company, kept reasonably contemporaneous with the expense.